

AMENDMENTS TO LB 195

Introduced by Health and Human Services.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 28-401, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-401 As used in the Uniform Controlled Substances Act,
6 unless the context otherwise requires:

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

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

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

16 (4) Controlled substance shall mean a drug, biological,
17 substance, or immediate precursor in Schedules I to V of section
18 28-405. Controlled substance shall not include distilled spirits,
19 wine, malt beverages, tobacco, or any nonnarcotic substance if such
20 substance may, under the Federal Food, Drug, and Cosmetic Act,
21 21 U.S.C. 301 et seq., as such act existed on January 1, ~~2003,~~
22 2009, and the law of this state, be lawfully sold over the counter
23 without a prescription;

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

10 (6) Department shall mean the Department of Health and
11 Human Services;

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

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

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

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

23 (11) Drug shall mean (a) articles recognized in
24 the official United States Pharmacopoeia, official Homeopathic
25 Pharmacopoeia of the United States, official National Formulary,
26 or any supplement to any of them, (b) substances intended for use
27 in the diagnosis, cure, mitigation, treatment, or prevention of

1 disease in human beings or animals, and (c) substances intended for
2 use as a component of any article specified in subdivision (a) or
3 (b) of this subdivision, but shall not include devices or their
4 components, parts, or accessories;

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

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

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

1 include any packaging or repackaging of the substance or labeling
2 or relabeling of its container. Manufacture shall not include
3 the preparation or compounding of a controlled substance by an
4 individual for his or her own use, except for the preparation or
5 compounding of components or ingredients used for or intended to
6 be used for the manufacture of methamphetamine, or the preparation,
7 compounding, conversion, packaging, or labeling of a controlled
8 substance: (a) By a practitioner as an incident to his or her
9 prescribing, administering, or dispensing of a controlled substance
10 in the course of his or her professional practice; or (b) by a
11 practitioner, or by his or her authorized agent under his or her
12 supervision, for the purpose of, or as an incident to, research,
13 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
26 coca leaves or extracts of coca leaves, which extracts do not
27 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

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

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

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

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

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

23 (21) Production shall include the manufacture, planting,
24 cultivation, or harvesting of a controlled substance;

25 (22) Immediate precursor shall mean a substance which is
26 the principal compound commonly used or produced primarily for use
27 and which is an immediate chemical intermediary used or likely

1 to be used in the manufacture of a controlled substance, the
2 control of which is necessary to prevent, curtail, or limit such
3 manufacture;

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

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

10 (25) Hospital shall have the same meaning as in section
11 71-419;

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

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

22 (28) Exceptionally hazardous drug shall mean (a)
23 a narcotic drug, (b) thiophene analog of phencyclidine,
24 (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f)
25 pentobarbital, (g) amphetamine, or (h) methamphetamine;

26 (29) Imitation controlled substance shall mean a
27 substance which is not a controlled substance but which, by way

1 of express or implied representations and consideration of other
2 relevant factors including those specified in section 28-445,
3 would lead a reasonable person to believe the substance is a
4 controlled substance. A placebo or registered investigational drug
5 manufactured, distributed, possessed, or delivered in the ordinary
6 course of practice or research by a health care professional shall
7 not be deemed to be an imitation controlled substance;

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

21 (b) Controlled substance analogue shall not include (i)
22 a controlled substance, (ii) any substance generally recognized as
23 safe and effective within the meaning of the Federal Food, Drug,
24 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed
25 on January 1, ~~2003~~, 2009, (iii) any substance for which there
26 is an approved new drug application, or (iv) with respect to a
27 particular person, any substance if an exemption is in effect

1 for investigational use for that person, under section 505 of
2 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such
3 section existed on January 1, ~~2003~~, 2009, to the extent conduct
4 with respect to such substance is pursuant to such exemption;

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

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

22 (33) Medical order shall mean a prescription, a
23 chart order, or an order for pharmaceutical care issued by a
24 practitioner;

25 (34) Prescription shall mean an order for a controlled
26 substance issued by a practitioner. Prescription shall not include
27 a chart order;

1 (35) Registrant shall mean any person who has a
2 controlled substances registration issued by the state or the
3 administration;

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

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

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

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

21 (40) Electronic transmission shall mean transmission
22 of information in electronic form. Electronic transmission may
23 include computer-to-computer transmission or computer-to-facsimile
24 transmission; ~~and-~~

25 (41) Long-term care facility shall mean an intermediate
26 care facility, an intermediate care facility for the mentally
27 retarded, a long-term care hospital, a mental health center, a

1 nursing facility, or a skilled nursing facility, as such terms are
2 defined in the Health Care Facility Licensure Act.

3 Sec. 2. Section 28-407, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-407 (1) Except as otherwise provided in this
6 section, every person who manufactures, prescribes, distributes,
7 administers, or dispenses any controlled substance within this
8 state or who proposes to engage in the manufacture, prescribing,
9 administering, distribution, or dispensing of any controlled
10 substance within this state shall obtain a registration issued
11 by the department, except that on and after January 1, 2000,
12 health care providers credentialed by the department and facilities
13 licensed by the department shall not be required to obtain a
14 separate Nebraska controlled substances registration upon providing
15 proof of a Federal Controlled Substances Registration to the
16 department. Federal Controlled Substances Registration numbers
17 obtained under this section shall not be public information but
18 may be shared by the department for investigative and regulatory
19 purposes if necessary and only under appropriate circumstances to
20 ensure against any unauthorized access to such information.

21 (2) The following persons shall not be required to
22 register and may lawfully possess controlled substances under the
23 provisions of the Uniform Controlled Substances Act:

24 (a) An agent, or an employee thereof, of any
25 practitioner, registered manufacturer, distributor, or dispenser
26 of any controlled substance if such agent is acting in the usual
27 course of his or her business or employment;

1 (b) A common or contract carrier or warehouse keeper, or
2 an employee thereof, whose possession of any controlled substance
3 is in the usual course of his or her business or employment; and

4 (c) An ultimate user or a person in possession of any
5 controlled substance pursuant to a medical order issued by a
6 practitioner authorized to prescribe.

7 (3) A separate registration shall be required at each
8 principal place of business of professional practice where the
9 applicant manufactures, distributes, or dispenses controlled
10 substances, except that no registration shall be required in
11 connection with the placement of an emergency box within ~~an~~
12 ~~institution~~ a long-term care facility pursuant to the provisions of
13 the Emergency Box Drug Act.

14 (4) The department is authorized to inspect the
15 establishment of a registrant or applicant for registration in
16 accordance with the rules and regulations promulgated.

17 Sec. 3. Section 28-414, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 28-414 (1)(a) Except as otherwise provided in this
20 subsection or section 28-412 or when administered directly by
21 a practitioner to an ultimate user, a controlled substance listed
22 in Schedule II of section 28-405 shall not be dispensed without
23 the written prescription bearing the signature of a practitioner
24 authorized to prescribe. No ~~medical order~~ prescription for a
25 controlled substance listed in Schedule II of section 28-405 shall
26 be filled more than six months from the date of issuance. A
27 prescription for a controlled substance listed in Schedule II of

1 section 28-405 shall not be refilled.

2 (b) In emergency situations as defined by rule and
3 regulation of the department, a controlled substance listed in
4 Schedule II of section 28-405 may be dispensed pursuant to a
5 facsimile of a written, signed prescription bearing the word
6 "emergency" or pursuant to an oral prescription reduced to writing
7 in accordance with subdivision (3)(b) of this section, except for
8 the prescribing practitioner's signature, and bearing the word
9 "emergency".

10 (c) In nonemergency situations:

11 (i) A controlled substance listed in Schedule II of
12 section 28-405 may be dispensed pursuant to a facsimile of
13 a written, signed prescription if the original written, signed
14 prescription is presented to the pharmacist for review before
15 the controlled substance is dispensed, except as provided in
16 subdivision (1)(c)(ii) or (1)(c)(iii) of this section;

17 (ii) A narcotic drug listed in Schedule II of section
18 28-405 may be dispensed pursuant to a facsimile of a written,
19 signed prescription (A) to be compounded for direct parenteral
20 administration to a patient for the purpose of home infusion
21 therapy or (B) for administration to a patient enrolled in a
22 hospice licensed under the Health Care Facility Licensure Act or
23 certified under Title XVIII of the federal Social Security Act, as
24 such title existed on May 1, 2001, care program and bearing the
25 words "hospice patient";

26 (iii) A controlled substance listed in Schedule II of
27 section 28-405 may be dispensed pursuant to a facsimile of a

1 written, signed prescription for administration to a resident of a
2 long-term care facility; and

3 (iv) For purposes of subdivisions (1)(c)(ii) and
4 (1)(c)(iii) of this section, a facsimile of a written, signed
5 prescription shall serve as the original written prescription and
6 shall be maintained in accordance with subdivision (3)(a) of this
7 section.

8 (d)(i) A prescription for a controlled substance listed
9 in Schedule II of section 28-405 may be partially filled if the
10 pharmacist does not supply the full quantity prescribed and he
11 or she makes a notation of the quantity supplied on the face of
12 the prescription. The remaining portion of the prescription may
13 be filled within seventy-two hours of the first partial filling.
14 The pharmacist shall notify the prescribing practitioner if the
15 remaining portion of the prescription is not or cannot be filled
16 within such period. No further quantity may be supplied after such
17 period without a new written, signed prescription.

18 (ii) A prescription for a controlled substance listed in
19 Schedule II of section 28-405 written for a patient in a long-term
20 care facility or for a patient with a medical diagnosis documenting
21 a terminal illness may be partially filled. Such prescription
22 shall bear the words "terminally ill" or "long-term care facility
23 patient" on its face. If there is any question whether a patient
24 may be classified as having a terminal illness, the pharmacist
25 shall contact the prescribing practitioner prior to partially
26 filling the prescription. Both the pharmacist and the prescribing
27 practitioner have a corresponding responsibility to assure that the

1 controlled substance is for a terminally ill patient. For each
2 partial filling, the dispensing pharmacist shall record on the back
3 of the prescription or on another appropriate record, uniformly
4 maintained and readily retrievable, the date of the partial
5 filling, quantity dispensed, remaining quantity authorized to be
6 dispensed, and the identification of the dispensing pharmacist. The
7 total quantity of controlled substances listed in Schedule II which
8 is dispensed in all partial fillings shall not exceed the total
9 quantity prescribed. A prescription for a Schedule II controlled
10 substance for a patient in a long-term care facility or a patient
11 with a medical diagnosis documenting a terminal illness is valid
12 for sixty days from the date of issuance or until discontinuance of
13 the prescription, whichever occurs first.

14 (2) (a) Except as otherwise provided in this subsection
15 or when administered directly by a practitioner to an ultimate
16 user, a controlled substance listed in Schedule III, IV, or V of
17 section 28-405 shall not be dispensed without a written or oral
18 medical order. Such medical order is valid for six months after
19 the date of issuance. Authorization from a practitioner authorized
20 to prescribe is required to refill a prescription for a controlled
21 substance listed in Schedule III, IV, or V of section 28-405.
22 Such prescriptions shall not be refilled more than five times
23 within six months after the date of issuance. Original prescription
24 information for any controlled substance listed in Schedule III,
25 IV, or V of section 28-405 may be transferred between pharmacies
26 for purposes of refill dispensing pursuant to section 38-2871.

27 (b) A controlled substance listed in Schedule III, IV, or

1 V of section 28-405 may be dispensed pursuant to a facsimile of
2 a written, signed prescription. The facsimile of a written, signed
3 prescription shall serve as the original written prescription for
4 purposes of this subsection and shall be maintained in accordance
5 with the provisions of subdivision (3)(c) of this section.

6 (c) A prescription for a controlled substance listed in
7 Schedule III, IV, or V of section 28-405 may be partially filled
8 if (i) each partial filling is recorded in the same manner as
9 a refilling, (ii) the total quantity dispensed in all partial
10 fillings does not exceed the total quantity prescribed, and (iii)
11 each partial filling is dispensed within six months after the
12 prescription was issued.

13 (3)(a) Prescriptions for all controlled substances listed
14 in Schedule II of section 28-405 shall be kept in a separate
15 file by the dispensing practitioner and shall be maintained for
16 a minimum of five years. The practitioner shall make all such
17 files readily available to the department and law enforcement for
18 inspection without a search warrant.

19 (b) All prescriptions for controlled substances listed
20 in Schedule II of section 28-405 shall contain the name and
21 address of the patient, the name and address of the prescribing
22 practitioner, the Drug Enforcement Administration number of
23 the prescribing practitioner, the date of issuance, and the
24 prescribing practitioner's signature. The practitioner filling such
25 prescription shall write the date of filling and his or her own
26 signature on the face of the prescription. If the prescription is
27 for an animal, it shall also state the name and address of the

1 owner of the animal and the species of the animal.

2 (c) Prescriptions for all controlled substances listed in
3 Schedule III, IV, or V of section 28-405 shall be ~~filed~~ maintained
4 either separately from other prescriptions in a single file by or
5 in a form in which the information required is readily retrievable
6 from ordinary business records of the dispensing practitioner and
7 shall be maintained for a minimum of five years. The practitioner
8 shall make all such ~~files~~ records readily available to the
9 department and law enforcement for inspection without a search
10 warrant.

11 (d) All prescriptions for controlled substances listed in
12 Schedule III, IV, or V of section 28-405 shall contain the name
13 and address of the patient, the name and address of the prescribing
14 practitioner, the Drug Enforcement Administration number of the
15 prescribing practitioner, the date of issuance, and for written
16 prescriptions, the prescribing practitioner's signature. If the
17 prescription is for an animal, it shall also state the owner's name
18 and address and species of the animal.

19 (e) A registrant who is the owner of a controlled
20 substance may transfer:

21 (i) Any controlled substance listed in Schedule I or II
22 of section 28-405 to another registrant as provided by law or by
23 rule and regulation of the department; and

24 (ii) Any controlled substance listed in Schedule III, IV,
25 or V of section 28-405 to another registrant if such owner complies
26 with subsection (4) of section 28-411.

27 (f) (i) The owner of any stock of controlled substances

1 may cause such controlled substances to be destroyed pursuant
2 to this subdivision when the need for such substances ceases.
3 Complete records of controlled substances destruction pursuant to
4 this subdivision shall be maintained by the registrant for five
5 years from the date of destruction.

6 (ii) When the owner is a registrant:

7 (A) Controlled substances listed in Schedule II, III,
8 IV, or V of section 28-405 may be destroyed by a pharmacy
9 inspector, by a reverse distributor, or by the federal Drug
10 Enforcement Administration. Upon destruction, any forms required by
11 the administration to document such destruction shall be completed;

12 (B) Liquid controlled substances in opened containers
13 which originally contained fifty milliliters or less or compounded
14 liquid controlled substances within the facility where they
15 were compounded may be destroyed if witnessed by two ~~members~~
16 ~~of the healing arts~~ individuals credentialed under the Uniform
17 Credentialing Act and designated by the facility and recorded in
18 accordance with subsection (4) of section 28-411; or

19 (C) Solid controlled substances in opened unit-dose
20 containers or which have been adulterated within a hospital
21 where they were to be administered to patients at such hospital
22 may be destroyed if witnessed by two ~~members of the healing~~
23 ~~arts~~ individuals credentialed under the Uniform Credentialing Act
24 and designated by the hospital and recorded in accordance with
25 subsection (4) of section 28-411.

26 (iii) When the owner is a patient, such owner may
27 transfer the controlled substances to a pharmacy for immediate

1 destruction by two responsible parties acting on behalf of the
2 pharmacy, one of whom must be a member of the healing arts.
3 individuals credentialed under the Uniform Credentialing Act and
4 designated by the pharmacy.

5 (iv) When the owner is a resident of a long-term care
6 facility or hospital, the long-term care facility or hospital shall
7 assure that controlled substances are destroyed as follows: (A) If
8 the a controlled substance is listed in Schedule II, or III,
9 IV, or V of section 28-405 shall be destroyed by two individuals
10 credentialed under the Uniform Credentialing Act and designated by
11 the facility or hospital. the destruction shall be witnessed by
12 an employee pharmacist or a consultant pharmacist and a member of
13 the healing arts, or

14 (B) If the controlled substance is listed in Schedule
15 IV or V of section 28-405, the destruction shall be witnessed
16 by an employee pharmacist or a consultant pharmacist and another
17 responsible adult.

18 (g) Before dispensing any controlled substance listed
19 in Schedule II, III, IV, or V of section 28-405, the dispensing
20 practitioner shall affix a label to the container in which the
21 controlled substance is dispensed. Such label shall bear the
22 name and address of the pharmacy or dispensing practitioner,
23 the name of the patient, the date of filling, the consecutive
24 number of the prescription under which it is recorded in the
25 practitioner's prescription files, records, the name of the
26 prescribing practitioner, and the directions for use of the
27 controlled substance. Unless the prescribing practitioner writes

1 "do not label" or words of similar import on the original written
2 prescription or so designates in an oral prescription, such label
3 shall also bear the name of the controlled substance.

4 ~~(4) For purposes of this section, long-term care facility~~
5 ~~has the same meaning as long-term care hospital in section~~
6 ~~71-422 and includes an intermediate care facility for the mentally~~
7 ~~retarded as defined in section 71-421.~~

8 Sec. 4. Section 37-413, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 37-413 (1) For the purpose of establishing and
11 administering a mandatory firearm hunter education program for
12 persons twelve through twenty-nine years of age who hunt with
13 a firearm or crossbow any species of game, game birds, or game
14 animals, the commission shall provide a program of firearm hunter
15 education training leading to obtaining a certificate of successful
16 completion in the safe handling of firearms and shall locate
17 and train volunteer firearm hunter education instructors. The
18 program shall provide a training course having a minimum of (a)
19 ten hours of classroom instruction or (b) independent study on
20 the part of the student sufficient to pass an examination given
21 by the commission followed by such student's participation in a
22 minimum of four hours of practical instruction. The program shall
23 provide instruction in the areas of safe firearms use, shooting
24 and sighting techniques, hunter ethics, game identification, and
25 conservation management. The commission shall issue a firearm
26 hunter education certificate of successful completion to persons
27 having satisfactorily completed a firearm hunter education course

1 accredited by the commission and shall print, purchase, or
2 otherwise acquire materials as necessary for effective program
3 operation. The commission shall adopt and promulgate rules and
4 regulations for carrying out and administering such programs.

5 (2) It shall be unlawful for any person twenty-nine years
6 of age or younger to hunt with a firearm or crossbow any species of
7 game, game birds, or game animals except:

8 (a) A person under the age of twelve years who is
9 accompanied by a person nineteen years of age or older having a
10 valid hunting permit;

11 (b) A person twelve through twenty-nine years of age who
12 has on his or her person proof of successful completion of a hunter
13 education course or a firearm hunter education course issued by the
14 person's state or province of residence or by an accredited program
15 recognized by the commission; or

16 (c) A person twelve through twenty-nine years of age who
17 has on his or her person the appropriate hunting permit and an
18 apprentice hunter education exemption certificate issued by the
19 commission pursuant to subsection (3) of this section and who is
20 accompanied as described in subsection (4) of this section.

21 (3) An apprentice hunter education exemption certificate
22 may be issued to a person twelve through twenty-nine years of age,
23 once during such person's lifetime with one renewal, upon payment
24 of a fee of five dollars and shall expire at midnight on December
25 31 of the year for which the apprentice hunter education exemption
26 certificate is issued. The commission may adopt and promulgate
27 rules and regulations allowing for the issuance of apprentice

1 hunter education exemption certificates. All fees collected under
2 this subsection shall be remitted to the State Treasurer for credit
3 to the State Game Fund.

4 (4) For purposes of this section, accompanied means under
5 the direct supervision of a person nineteen years of age or older
6 having a valid hunting permit who is at all times in unaided visual
7 and verbal communication of no more than two persons having an
8 apprentice hunter education exemption certificate. This subsection
9 does not prohibit the use by such person nineteen years of age
10 or older of ordinary prescription eyeglasses or contact lenses or
11 ordinary hearing aids- instruments.

12 Sec. 5. Section 38-101, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 38-101 Sections 38-101 to 38-1,140 and the following
15 practice acts shall be known and may be cited as the Uniform
16 Credentialing Act:

- 17 (1) The Advanced Practice Registered Nurse Practice Act;
- 18 (2) The Alcohol and Drug Counseling Practice Act;
- 19 (3) The Athletic Training Practice Act;
- 20 (4) The Audiology and Speech-Language Pathology Practice
21 Act;
- 22 (5) The Certified Nurse Midwifery Practice Act;
- 23 (6) The Certified Registered Nurse Anesthetist Practice
24 Act;
- 25 (7) The Chiropractic Practice Act;
- 26 (8) The Clinical Nurse Specialist Practice Act;
- 27 (9) The Cosmetology, Electrology, Esthetics, Nail

- 1 Technology, and Body Art Practice Act;
- 2 (10) The Dentistry Practice Act;
- 3 (11) The Emergency Medical Services Practice Act;
- 4 (12) The Environmental Health Specialists Practice Act;
- 5 (13) The Funeral Directing and Embalming Practice Act;
- 6 (14) The Hearing Aid Instrument ~~Dispensers and Fitters~~
- 7 Specialists Practice Act;
- 8 (15) The Licensed Practical Nurse-Certified Practice Act;
- 9 (16) The Massage Therapy Practice Act;
- 10 (17) The Medical Nutrition Therapy Practice Act;
- 11 (18) The Medical Radiography Practice Act;
- 12 (19) The Medicine and Surgery Practice Act;
- 13 (20) The Mental Health Practice Act;
- 14 (21) The Nurse Practice Act;
- 15 (22) The Nurse Practitioner Practice Act;
- 16 (23) The Nursing Home Administrator Practice Act;
- 17 (24) The Occupational Therapy Practice Act;
- 18 (25) The Optometry Practice Act;
- 19 (26) The Perfusion Practice Act;
- 20 (27) The Pharmacy Practice Act;
- 21 (28) The Physical Therapy Practice Act;
- 22 (29) The Podiatry Practice Act;
- 23 (30) The Psychology Practice Act;
- 24 (31) The Respiratory Care Practice Act;
- 25 (32) The Veterinary Medicine and Surgery Practice Act;
- 26 and
- 27 (33) The Water Well Standards and Contractors' Practice

1 Act.

2 If there is any conflict between any provision of
3 sections 38-101 to 38-1,139 and any provision of a practice
4 act, the provision of the practice act shall prevail.

5 The Revisor of Statutes shall assign the Uniform
6 Credentialing Act, including the practice acts enumerated in
7 subdivisions (1) through (32) of this section, to consecutive
8 articles within Chapter 38.

9 Sec. 6. Section 38-121, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 38-121 (1) No individual shall engage in the following
12 practices unless such individual has obtained a credential under
13 the Uniform Credentialing Act:

- 14 (a) Acupuncture;
- 15 (b) Advanced practice nursing;
- 16 (c) Alcohol and drug counseling;
- 17 (d) Asbestos abatement, inspection, project design, and
18 training;
- 19 (e) Athletic training;
- 20 (f) Audiology;
- 21 (g) Speech-language pathology;
- 22 (h) Body art;
- 23 (i) Chiropractic;
- 24 (j) Cosmetology;
- 25 (k) Dentistry;
- 26 (l) Dental hygiene;
- 27 (m) Electrology;

- 1 (n) Emergency medical services;
- 2 (o) Esthetics;
- 3 (p) Funeral directing and embalming;
- 4 (q) Hearing aid instrument dispensing and fitting;
- 5 (r) Lead-based paint abatement, inspection, project
6 design, and training;
- 7 (s) Licensed practical nurse-certified;
- 8 (t) Massage therapy;
- 9 (u) Medical nutrition therapy;
- 10 (v) Medical radiography;
- 11 (w) Medicine and surgery;
- 12 (x) Mental health practice;
- 13 (y) Nail technology;
- 14 (z) Nursing;
- 15 (aa) Nursing home administration;
- 16 (bb) Occupational therapy;
- 17 (cc) Optometry;
- 18 (dd) Osteopathy;
- 19 (ee) Perfusion;
- 20 (ff) Pharmacy;
- 21 (gg) Physical therapy;
- 22 (hh) Podiatry;
- 23 (ii) Psychology;
- 24 (jj) Radon detection, measurement, and mitigation;
- 25 (kk) Respiratory care;
- 26 (ll) Veterinary medicine and surgery;
- 27 (mm) Public water system operation; and

1 (nn) Constructing or decommissioning water wells and
2 installing water well pumps and pumping equipment.

3 (2) No individual shall hold himself or herself out
4 as any of the following until such individual has obtained a
5 credential under the Uniform Credentialing Act for that purpose:

- 6 (a) Registered environmental health specialist;
- 7 (b) Certified marriage and family therapist;
- 8 (c) Certified professional counselor; or
- 9 (d) Social worker.

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

- 13 (a) Body art;
- 14 (b) Cosmetology;
- 15 (c) Emergency medical services;
- 16 (d) Esthetics;
- 17 (e) Funeral directing and embalming;
- 18 (f) Massage therapy; or
- 19 (g) Nail technology.

20 Sec. 7. Section 38-167, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 38-167 (1) Boards shall be designated as follows:

- 23 (a) Board of Advanced Practice Registered Nurses;
- 24 (b) Board of Alcohol and Drug Counseling;
- 25 (c) Board of Athletic Training;
- 26 (d) Board of Audiology and Speech-Language Pathology;
- 27 (e) Board of Chiropractic;

1 (f) Board of Cosmetology, Electrology, Esthetics, Nail
2 Technology, and Body Art;

3 (g) Board of Dentistry;

4 (h) Board of Emergency Medical Services;

5 (i) Board of Registered Environmental Health Specialists;

6 (j) Board of Funeral Directing and Embalming;

7 (k) Board of Hearing Aid Instrument Dispensers and
8 ~~Fitters; Specialists;~~

9 (l) Board of Massage Therapy;

10 (m) Board of Medical Nutrition Therapy;

11 (n) Board of Medical Radiography;

12 (o) Board of Medicine and Surgery;

13 (p) Board of Mental Health Practice;

14 (q) Board of Nursing;

15 (r) Board of Nursing Home Administration;

16 (s) Board of Occupational Therapy Practice;

17 (t) Board of Optometry;

18 (u) Board of Pharmacy;

19 (v) Board of Physical Therapy;

20 (w) Board of Podiatry;

21 (x) Board of Psychology;

22 (y) Board of Respiratory Care Practice;

23 (z) Board of Veterinary Medicine and Surgery; and

24 (aa) Water Well Standards and Contractors' Licensing
25 Board.

26 (2) Any change made by the Legislature of the names of
27 boards listed in this section shall not change the membership of

1 such boards or affect the validity of any action taken by or the
2 status of any action pending before any of such boards. Any such
3 board newly named by the Legislature shall be the direct and only
4 successor to the board as previously named.

5 Sec. 8. Section 38-507, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 38-507 Practice of audiology means the application
8 of evidence-based practice in clinical decisionmaking for
9 the prevention, assessment, habilitation, rehabilitation, and
10 maintenance of persons with hearing, auditory function, and
11 vestibular function impairments and related impairments, including
12 (1) cerumen removal from the cartilaginous outer one-third portion
13 of the external auditory canal when the presence of cerumen may
14 affect the accuracy of hearing evaluations or impressions of the
15 ear canal for amplification devices and (2) evaluation, selection,
16 fitting, and dispensing of hearing aids, instruments, external
17 processors of implantable hearing aids, instruments, and assistive
18 technology devices as part of a comprehensive audiological
19 rehabilitation program. Practice of audiology does not include the
20 practice of medical diagnosis, medical treatment, or surgery.

21 Sec. 9. Section 38-511, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 38-511 Nothing in the Audiology and Speech-Language
24 Pathology Practice Act shall be construed to prevent or restrict:

25 (1) The practice of audiology or speech-language
26 pathology or the use of the official title of such practice by a
27 person employed as a speech-language pathologist or audiologist by

1 the federal government;

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

6 (3) A person licensed as a hearing aid fitter and
7 ~~dealer~~ instrument specialist in this state from engaging in
8 the fitting, selling, and servicing of hearing aids instruments
9 or performing such other duties as defined in the Hearing Aid
10 Instrument Dispensers and Fitters Specialists Practice Act;

11 (4) The practice of audiology or speech-language
12 pathology or the use of the official title of such practice
13 by a person who holds a valid and current credential as a
14 speech-language pathologist or audiologist issued by the State
15 Department of Education, if such person performs speech-language
16 pathology or audiology services solely as a part of his or her
17 duties within an agency, institution, or organization for which no
18 fee is paid directly or indirectly by the recipient of such service
19 and under the jurisdiction of the State Department of Education,
20 but such person may elect to be within the jurisdiction of the
21 Audiology and Speech-Language Pathology Practice Act;

22 (5) The clinical practice in audiology or speech-language
23 pathology required for students enrolled in an accredited college
24 or university pursuing a major in audiology or speech-language
25 pathology, if such clinical practices are supervised by a person
26 licensed to practice audiology or speech-language pathology and if
27 the student is designated by a title such as student clinician or

1 other title clearly indicating the training status; or

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

6 Sec. 10. Section 38-512, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 38-512 Any audiologist who engages in the sale of
9 hearing ~~aids~~ instruments shall not be exempt from the Hearing
10 ~~Aid Instrument Dispensers and Fitters~~ Specialists Practice Act.

11 Sec. 11. Section 38-524, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 38-524 An audiology or speech-language pathology
14 assistant shall not:

15 (1) Evaluate or diagnose any type of communication
16 disorder;

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

18 (3) Interpret evaluation results or treatment progress;

19 (4) Consult or counsel, independent of the licensed
20 audiologist or speech-language pathologist, with a patient, a
21 patient's family, or staff regarding the nature or degree of
22 communication disorders or dysphagia;

23 (5) Plan patient treatment programs;

24 (6) Represent himself or herself as an audiologist or
25 speech-language pathologist or as a provider of speech, language,
26 swallowing, or hearing treatment or assessment services;

27 (7) Independently initiate, modify, or terminate any

1 treatment program; or

2 (8) Fit or dispense hearing ~~aids~~ instruments.

3 Sec. 12. Section 38-1215, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 38-1215 (1) The board shall have seventeen members
6 appointed by the Governor with the approval of a majority of
7 the Legislature. The appointees may begin to serve immediately
8 following appointment and prior to approval by the Legislature.

9 (2) (a) Seven members of the ~~Board of Emergency Medical~~
10 ~~Services~~ board shall be active out-of-hospital emergency care
11 providers at the time of and for the duration of their
12 appointment, and each shall have at least five years of
13 experience in his or her level of licensure at the time of
14 his or her appointment or reappointment. ~~Two of~~ Of the seven
15 members who are out-of-hospital emergency care providers, two
16 shall be first responders or emergency medical responders,
17 two shall be emergency medical technicians, one shall be
18 an emergency medical technician-intermediate or an advanced
19 emergency medical technician, and two shall be emergency medical
20 technicians-paramedic or paramedics.

21 (b) Three of the members shall be qualified physicians
22 actively involved in emergency medical care. At least one of the
23 physician members shall be a board-certified emergency physician.

24 (c) Five members shall be appointed to include one member
25 who is a representative of an approved training agency, one member
26 who is a physician assistant with at least five years of experience
27 and active in out-of-hospital emergency medical care education,

1 one member who is a registered nurse with at least five years
2 of experience and active in out-of-hospital emergency medical care
3 education, and two public members who meet the requirements of
4 section 38-165 and who have an expressed interest in the provision
5 of out-of-hospital emergency medical care.

6 (d) The remaining two members shall have any of the
7 qualifications listed in subdivision (a), (b), or (c) of this
8 subsection.

9 (e) In addition to any other criteria for appointment,
10 among the members of the board there shall be at least one member
11 who is a volunteer emergency medical care provider, at least one
12 member who is a paid emergency medical care provider, at least
13 one member who is a firefighter, at least one member who is a
14 law enforcement officer, and at least one member who is active
15 in the Critical Incident Stress Management Program. If a person
16 appointed to the board is qualified to serve as a member in more
17 than one capacity, all qualifications of such person shall be taken
18 into consideration to determine whether or not the diversity in
19 qualifications required in this subsection has been met.

20 (f) At least five members of the board shall be appointed
21 from each congressional district, and at least one of such members
22 shall be a physician member described in subdivision (b) of this
23 subsection.

24 (3) Members shall serve five-year terms beginning on
25 December 1 and may serve for any number of such terms. The terms of
26 the members of the board appointed prior to December 1, 2008, shall
27 be extended by two years and until December 1 of such year. Each

1 member shall hold office until the expiration of his or her term.
2 Any vacancy in membership, other than by expiration of a term,
3 shall be filled within ninety days by the Governor by appointment
4 as provided in subsection (2) of this section.

5 (4) Special meetings of the board may be called by the
6 department or upon the written request of any six members of the
7 board explaining the reason for such meeting. The place of the
8 meetings shall be set by the department.

9 (5) The Governor upon recommendation of the department
10 shall have power to remove from office at any time any member
11 of the board for physical or mental incapacity to carry out the
12 duties of a board member, for continued neglect of duty, for
13 incompetency, for acting beyond the individual member's scope of
14 authority, for malfeasance in office, for any cause for which a
15 professional credential may be suspended or revoked pursuant to the
16 Uniform Credentialing Act, or for a lack of license required by the
17 Emergency Medical Services Practice Act.

18 (6) Except as provided in subsection (5) of this section
19 and notwithstanding subsection (2) of this section, a member of
20 the board who changes his or her licensure classification after
21 appointment or has a licensure classification which is terminated
22 under section 38-1217 when such licensure classification was a
23 qualification for appointment shall be permitted to continue to
24 serve as a member of the board until the expiration of his or her
25 term.

26 Sec. 13. Section 38-1217, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 38-1217 The board shall adopt rules and regulations
2 necessary to:

3 ~~(1) Create (1)(a) For licenses issued prior to September~~
4 1, 2010, create the following licensure classifications of
5 out-of-hospital emergency care providers: ~~(a) (i) First responder;~~
6 ~~(b) (ii) emergency medical technician; ~~(c) (iii) emergency~~~~
7 medical technician-intermediate; and ~~(d) (iv) emergency medical~~
8 technician-paramedic; and (b) for licenses issued on or after
9 September 1, 2010, create the following licensure classifications
10 of out-of-hospital emergency care providers: (i) Emergency medical
11 responder; (ii) emergency medical technician; (iii) advanced
12 emergency medical technician; and (iv) paramedic. The rules
13 and regulations creating the classifications shall include the
14 practices and procedures authorized for each classification,
15 training and testing requirements, renewal and reinstatement
16 requirements, and other criteria and qualifications for each
17 classification determined to be necessary for protection of public
18 health and safety. A person holding a license issued prior to
19 September 1, 2010, shall be authorized to practice in accordance
20 with the laws, rules, and regulations governing the license for the
21 term of the license;

22 (2) Provide for temporary licensure of an out-of-hospital
23 emergency care provider who has completed the educational
24 requirements for a licensure classification enumerated in
25 subdivision (1)(b) of this section but has not completed the
26 testing requirements for licensure under such subdivision.
27 Temporary licensure shall be valid for one year or until a license

1 is issued under such subdivision and shall not be subject to
2 renewal. The rules and regulations shall include qualifications
3 and training necessary for issuance of a temporary license, the
4 practices and procedures authorized for a temporary licensee, and
5 supervision required for a temporary licensee;

6 ~~(2)~~ (3) Set standards for the licensure of basic life
7 support services and advanced life support services. The rules and
8 regulations providing for licensure shall include standards and
9 requirements for: Vehicles, equipment, maintenance, sanitation,
10 inspections, personnel, training, medical direction, records
11 maintenance, practices and procedures to be provided by employees
12 or members of each classification of service, and other criteria
13 for licensure established by the board;

14 ~~(3)~~ (4) Authorize emergency medical services to
15 provide differing practices and procedures depending upon the
16 qualifications of out-of-hospital emergency care providers
17 available at the time of service delivery. No emergency medical
18 service shall be licensed to provide practices or procedures
19 without the use of personnel licensed to provide the practices or
20 procedures;

21 ~~(4)~~ (5) Authorize out-of-hospital emergency care
22 providers to perform any practice or procedure which they are
23 authorized to perform with an emergency medical service other than
24 the service with which they are affiliated when requested by the
25 other service and when the patient for whom they are to render
26 services is in danger of loss of life;

27 ~~(5)~~ (6) Provide for the approval of training agencies

1 and establish minimum standards for services provided by training
2 agencies;

3 ~~(6)~~ (7) Provide for the minimum qualifications of a
4 physician medical director in addition to the licensure required by
5 section 38-1212;

6 ~~(7)~~ (8) Provide for the use of physician medical
7 directors, qualified physician surrogates, model protocols,
8 standing orders, operating procedures, and guidelines which may be
9 necessary or appropriate to carry out the purposes of the Emergency
10 Medical Services Practice Act. The model protocols, standing
11 orders, operating procedures, and guidelines may be modified by
12 the physician medical director for use by any out-of-hospital
13 emergency care provider or emergency medical service before or
14 after adoption;

15 ~~(8)~~ (9) Establish criteria for approval of organizations
16 issuing cardiopulmonary resuscitation certification which shall
17 include criteria for instructors, establishment of certification
18 periods and minimum curricula, and other aspects of training and
19 certification;

20 ~~(9)~~ (10) Establish renewal and reinstatement requirements
21 for out-of-hospital emergency care providers and emergency
22 medical services and establish continuing competency requirements.
23 Continuing education is sufficient to meet continuing competency
24 requirements. The requirements may also include, but not be
25 limited to, one or more of the continuing competency activities
26 listed in section 38-145 which a licensed person may select
27 as an alternative to continuing education. The reinstatement

1 requirements for out-of-hospital emergency care providers shall
2 allow reinstatement at the same or any lower level of licensure
3 for which the out-of-hospital emergency care provider is determined
4 to be qualified;

5 ~~(10)~~ (11) Establish criteria for deployment and use of
6 automated external defibrillators as necessary for the protection
7 of the public health and safety;

8 ~~(11)~~ (12) Create licensure, renewal, and reinstatement
9 requirements for emergency medical service instructors. The rules
10 and regulations shall include the practices and procedures for
11 licensure, renewal, and reinstatement; ~~and~~

12 ~~(12)~~ (13) Establish criteria for emergency medical
13 technicians-intermediate, advanced emergency medical technicians,
14 ~~and~~ emergency medical technicians-paramedic, or paramedics
15 performing activities within their scope of practice at a hospital
16 or health clinic under subsection (3) of section 38-1224. Such
17 criteria shall include, but not be limited to: (a) Requirements
18 for the orientation of registered nurses, physician assistants,
19 and physicians involved in the supervision of such personnel; (b)
20 supervisory and training requirements for the physician medical
21 director or other person in charge of the medical staff at
22 such hospital or health clinic; and (c) a requirement that such
23 activities shall only be performed at the discretion of, and with
24 the approval of, the governing authority of such hospital or health
25 clinic. For purposes of this subdivision, health clinic has the
26 definition found in section 71-416 and hospital has the definition
27 found in section 71-419; ~~and-~~

1 (14) Establish criteria and requirements for emergency
2 medical technicians-intermediate to renew licenses issued prior
3 to September 1, 2010, and continue to practice after such
4 classification has otherwise terminated under subdivision (1)
5 of this section. The rules and regulations shall include
6 the qualifications necessary to renew emergency medical
7 technicians-intermediate licenses after September 1, 2010, the
8 practices and procedures authorized for persons holding and
9 renewing such licenses, and the renewal and reinstatement
10 requirements for holders of such licenses.

11 Sec. 14. Section 38-1218, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 38-1218 (1) The Legislature adopts all parts of the
14 United States Department of Transportation curricula, including
15 appendices, and skills as the training requirements and permitted
16 practices and procedures for the licensure classifications listed
17 in subdivision ~~(1)~~ (1)(a) of section 38-1217 until modified by the
18 board by rule and regulation. The Legislature adopts the United
19 States Department of Transportation National Emergency Medical
20 Services Education Standards and the National Emergency Medical
21 Services Scope of Practice for the licensure classifications listed
22 in subdivision (1)(b) of section 38-1217 until modified by the
23 board by rule and regulation. The board may approve curricula for
24 the licensure classifications listed in subdivision (1) of section
25 38-1217.

26 (2) The department and the board shall consider the
27 following factors, in addition to other factors required or

1 permitted by the Emergency Medical Services Practice Act, when
2 adopting rules and regulations for a licensure classification:

3 (a) Whether the initial training required for licensure
4 in the classification is sufficient to enable the out-of-hospital
5 emergency care provider to perform the practices and procedures
6 authorized for the classification in a manner which is beneficial
7 to the patient and protects public health and safety;

8 (b) Whether the practices and procedures to be authorized
9 are necessary to the efficient and effective delivery of
10 out-of-hospital emergency medical care;

11 (c) Whether morbidity can be reduced or recovery enhanced
12 by the use of the practices and procedures to be authorized for the
13 classification; and

14 (d) Whether continuing competency requirements
15 are sufficient to maintain the skills authorized for the
16 classification.

17 Sec. 15. Section 38-1219, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 38-1219 The department, with the recommendation of the
20 board, shall adopt and promulgate rules and regulations necessary
21 to:

22 (1) Administer the Emergency Medical Services Practice
23 Act;

24 (2) Provide for curricula which will allow
25 out-of-hospital emergency care providers and users of automated
26 external defibrillators as defined in section 71-51,102 to be
27 trained for the delivery of practices and procedures in units of

1 limited subject matter which will encourage continued development
2 of abilities and use of such abilities through additional
3 authorized practices and procedures;

4 (3) Establish procedures and requirements for
5 applications for licensure, renewal, and reinstatement in
6 any of the licensure classifications created pursuant to the
7 Emergency Medical Services Practice Act, including provisions for
8 issuing an emergency medical responder license to a licensee
9 renewing his or her first responder license after September 1,
10 2010, and for issuing a paramedic license to a licensee renewing
11 his or her emergency medical technician-paramedic license after
12 September 1, 2010; and

13 (4) Provide for the inspection, review, and termination
14 of approval of training agencies. All training for licensure shall
15 be provided through an approved training agency.

16 Sec. 16. Section 38-1221, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 38-1221 (1) To be eligible for a license under the
19 Emergency Medical Services Practice Act, an individual shall have
20 attained the age of eighteen years and met the requirements
21 established in accordance with subdivision (1), (2), or (14) of
22 section 38-1217.

23 (2) All licenses issued under the act other than
24 temporary licenses shall expire the second year after issuance.

25 (3) An individual holding a certificate under the
26 Emergency Medical Services Act on December 1, 2008, shall be deemed
27 to be holding a license under the Uniform Credentialing Act and

1 the Emergency Medical Services Practice Act on such date. The
2 certificate holder may continue to practice under such certificate
3 as a license in accordance with the Uniform Credentialing Act until
4 the certificate would have expired under its terms.

5 Sec. 17. Section 38-1224, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 38-1224 (1) An out-of-hospital emergency care provider
8 other than a first responder or an emergency medical responder as
9 classified under section 38-1217 may not assume the duties incident
10 to the title or practice the skills of an out-of-hospital emergency
11 care provider unless he or she is employed by or serving as a
12 volunteer member of an emergency medical service licensed by the
13 department.

14 (2) An out-of-hospital emergency care provider may only
15 practice the skills he or she is authorized to employ and which
16 are covered by the license issued to such provider pursuant to the
17 Emergency Medical Services Practice Act.

18 (3) An emergency medical technician-intermediate, ~~or~~
19 an emergency medical technician-paramedic, an advanced emergency
20 medical technician, or a paramedic may volunteer or be employed
21 at a hospital as defined in section 71-419 or a health clinic
22 as defined in section 71-416 to perform activities within his
23 or her scope of practice within such hospital or health clinic
24 under the supervision of a registered nurse, a physician assistant,
25 or a physician. Such activities shall be performed in a manner
26 established in rules and regulations adopted and promulgated by the
27 department, with the recommendation of the board.

1 Sec. 18. Section 38-1232, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 38-1232 (1) No out-of-hospital emergency care provider,
4 physician assistant, registered nurse, or licensed practical nurse
5 who provides public emergency care shall be liable in any civil
6 action to respond in damages as a result of his or her acts
7 of commission or omission arising out of and in the course of
8 his or her rendering in good faith any such care. Nothing in
9 this subsection shall be deemed to grant any such immunity for
10 liability arising out of the operation of any motor vehicle,
11 aircraft, or boat or while such person was impaired by alcoholic
12 liquor or any controlled substance enumerated in section 28-405 in
13 connection with such care, nor shall immunity apply to any person
14 causing damage or injury by his or her willful, wanton, or grossly
15 negligent act of commission or omission.

16 (2) No qualified physician or qualified physician
17 surrogate who gives orders, either orally or by communication
18 equipment, to any out-of-hospital emergency care provider at the
19 scene of an emergency, no out-of-hospital emergency care provider
20 following such orders within the limits of his or her licensure,
21 and no out-of-hospital emergency care provider trainee in an
22 approved training program following such orders, shall be liable
23 civilly or criminally by reason of having issued or followed such
24 orders but shall be subject to the rules of law applicable to
25 negligence.

26 (3) No physician medical director shall incur any
27 liability by reason of his or her use of any unmodified protocol,

1 standing order, operating procedure, or guideline provided by the
2 board pursuant to subdivision ~~(7)~~ (8) of section 38-1217.

3 Sec. 19. Section 38-1501, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 38-1501 Sections 38-1501 to 38-1518 shall be known and
6 may be cited as the Hearing Aid Instrument ~~Dispensers and Fitters~~
7 Specialists Practice Act.

8 Sec. 20. Section 38-1502, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 38-1502 For purposes of the Hearing Aid Instrument
11 ~~Dispensers and Fitters~~ Specialists Practice Act and elsewhere
12 in the Uniform Credentialing Act, unless the context otherwise
13 requires, the definitions found in sections 38-1503 to 38-1507
14 apply.

15 Sec. 21. Section 38-1503, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 38-1503 Board means the Board of Hearing Aid Instrument
18 ~~Dispensers and Fitters.~~ Specialists.

19 Sec. 22. Section 38-1504, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 38-1504 Hearing aid instrument means any wearable
22 instrument or device designed for or offered for the purpose of
23 aiding or compensating for impaired human hearing and any parts,
24 attachments, or accessories, including earmold, but excluding
25 batteries and cords. A hearing aid shall also be known as a hearing
26 ~~instrument.~~

27 Sec. 23. Section 38-1505, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 38-1505 Practice of fitting hearing ~~aids~~ instruments
3 means the measurement of human hearing by means of an audiometer or
4 by other means approved by the board solely for the purpose
5 of making selections, adaptations, or sale of hearing ~~aids~~.
6 instruments. The term also includes the making of impressions for
7 earmolds. A dispenser, at the request of a physician or a member of
8 related professions, may make audiograms for the professional's use
9 in consultation with the hard-of-hearing.

10 Sec. 24. Section 38-1506, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 38-1506 Sell, sale, or dispense means any transfer of
13 title or of the right to use by lease, bailment, or any other
14 contract, excluding (1) wholesale transactions with distributors
15 or dispensers and (2) distribution of hearing ~~aids~~ instruments by
16 nonprofit service organizations at no cost to the recipient for the
17 hearing ~~aid~~. instrument.

18 Sec. 25. Section 38-1507, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 38-1507 Temporary license means a hearing instrument
21 specialist license issued while the applicant is in training to
22 become a licensed hearing aid instrument ~~dispenser and fitter~~.
23 specialist.

24 Sec. 26. Section 38-1508, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 38-1508 The board shall consist of five professional
27 members and one public member appointed pursuant to section

1 38-158. The members shall meet the requirements of sections
2 38-164 and 38-165. The professional members shall consist of
3 three licensed hearing aid instrument dispensers and fitters,
4 specialists, one otolaryngologist, and one audiologist until one
5 licensed hearing instrument specialist vacates his or her office
6 or his or her term expires, whichever occurs first, at which
7 time the professional members of the board shall consist of three
8 licensed hearing instrument specialists, at least one of whom does
9 not hold a license as an audiologist, one otolaryngologist, and
10 one audiologist. At the expiration of the four-year terms of the
11 members serving on December 1, 2008, successors shall be appointed
12 for five-year terms.

13 Sec. 27. Section 38-1509, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 38-1509 (1) No person shall engage in the sale of or
16 practice of fitting hearing aids instruments or display a sign or
17 in any other way advertise or represent himself or herself as a
18 person who practices the fitting and sale or dispensing of hearing
19 aids instruments unless he or she holds an unsuspended, unrevoked
20 hearing instrument specialist license issued by the department
21 as provided in the ~~Hearing Aid Instrument Dispensers and Fitters~~
22 Specialists Practice Act. A hearing instrument specialist license
23 shall confer upon the holder the right to select, fit, and sell
24 hearing aids. instruments. A person holding a license issued under
25 the act prior to the effective date of this act may continue to
26 practice under such license until it expires under the terms of the
27 license.

1 (2) A licensed audiologist who maintains a practice
2 pursuant to licensure as an audiologist in which hearing ~~aids~~
3 instruments are regularly dispensed or who intends to maintain
4 such a practice shall also be licensed as a hearing instrument
5 specialist pursuant to subsection (4) of section 38-1512.

6 (3) Nothing in the act shall prohibit a corporation,
7 partnership, limited liability company, trust, association, or
8 other like organization maintaining an established business address
9 from engaging in the business of selling or offering for sale
10 hearing ~~aids~~ instruments at retail without a license if it employs
11 only properly licensed natural persons in the direct sale and
12 fitting of such products.

13 (4) Nothing in the act shall prohibit the holder of a
14 hearing instrument specialist license from the fitting and sale of
15 wearable instruments or devices designed for or offered for the
16 purpose of conservation or protection of hearing.

17 Sec. 28. Section 38-1510, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 38-1510 (1) The Hearing Aid Instrument ~~Dispensers and~~
20 ~~Fitters~~ Specialists Practice Act is not intended to prevent any
21 person from engaging in the practice of measuring human hearing for
22 the purpose of selection of hearing ~~aids~~ instruments if such person
23 or organization employing such person does not sell hearing ~~aids~~
24 instruments or accessories thereto.

25 (2) The act shall not apply to a person who is a
26 physician licensed to practice in this state, except that such
27 physician shall not delegate the authority to fit and dispense

1 hearing ~~aids~~ instruments unless the person to whom the authority is
2 delegated is licensed as a hearing instrument specialist under the
3 act.

4 Sec. 29. Section 38-1511, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 38-1511 (1) Any person who practices the fitting and sale
7 of hearing ~~aids~~ instruments shall deliver to each person supplied
8 with a hearing ~~aid~~ instrument a receipt which shall contain the
9 licensee's signature and show his or her business address and the
10 number of his or her certificate, together with specifications as
11 to the make and model of the hearing ~~aid~~ instrument furnished,
12 and clearly stating the full terms of sale. If ~~an aid~~ a hearing
13 instrument which is not new is sold, the receipt and the container
14 thereof shall be clearly marked as used or reconditioned, whichever
15 is applicable, with terms of guarantee, if any.

16 (2) Such receipt shall bear in no smaller type than the
17 largest used in the body copy portion the following: The purchaser
18 has been advised at the outset of his or her relationship with the
19 hearing ~~aid instrument dispenser~~ specialist that any examination or
20 representation made by a licensed hearing ~~aid instrument dispenser~~
21 ~~and fitter~~ specialist in connection with the fitting and selling
22 of this hearing ~~aid~~ instrument is not an examination, diagnosis,
23 or prescription by a person licensed to practice medicine in this
24 state and therefor must not be regarded as medical opinion or
25 advice.

26 Sec. 30. Section 38-1512, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 38-1512 (1) Any person may obtain a hearing instrument
2 specialist license under the Hearing Aid Instrument Dispensers
3 and Fitters Specialists Practice Act by successfully passing a
4 qualifying examination if the applicant:

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

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

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

14 (3) The department shall give examinations approved by
15 the board. A minimum of two examinations shall be offered each
16 calendar year.

17 (4) The department shall issue a hearing instrument
18 specialist license without examination to a licensed audiologist
19 who maintains a practice pursuant to licensure as an audiologist
20 in which hearing aids instruments are regularly dispensed or
21 who intends to maintain such a practice upon application to the
22 department, proof of licensure as an audiologist, and payment of a
23 twenty-five-dollar fee.

24 Sec. 31. Section 38-1513, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 38-1513 (1) The department, with the recommendation of
27 the board, shall issue a temporary license to any person who

1 has met the requirements for licensure as a hearing instrument
2 specialist pursuant to subsection (1) of section 38-1512. Previous
3 experience or a waiting period shall not be required to obtain a
4 temporary license.

5 (2) Any person who desires a temporary license shall
6 make application to the department. The temporary license shall
7 be issued for a period of one year. A person holding a valid
8 license as a hearing instrument specialist shall be responsible for
9 the supervision and training of such applicant and shall maintain
10 adequate personal contact with him or her.

11 (3) If a person who holds a temporary license under
12 this section has not successfully passed the licensing examination
13 within twelve months of the date of issuance of the temporary
14 license, the temporary license may be renewed or reissued for a
15 twelve-month period. In no case may a temporary license be renewed
16 or reissued more than once. A renewal or reissuance may take place
17 any time after the expiration of the first twelve-month period.

18 Sec. 32. Section 38-1514, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 38-1514 The qualifying examination provided in section
21 38-1512 shall be designed to demonstrate the applicant's adequate
22 technical qualifications by:

23 (1) Tests of knowledge in the following areas as they
24 pertain to the fitting and sale of hearing ~~aids~~ instruments:

25 (a) Basic physics of sound;

26 (b) The anatomy and physiology of the ear; and

27 (c) The function of hearing ~~aids~~ instruments; and

1 (2) Practical tests of proficiency in the following
2 techniques as they pertain to the fitting of hearing ~~aids~~
3 instruments:

4 (a) Pure tone audiometry, including air conduction
5 testing and bone conduction testing;

6 (b) Live voice or recorded voice speech audiometry;

7 (c) Masking when indicated;

8 (d) Recording and evaluation of audiograms and speech
9 audiometry to determine proper selection and adaptation of a
10 hearing ~~aid~~ instrument; and

11 (e) Taking earmold impressions.

12 Sec. 33. Section 38-1515, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 38-1515 An applicant for licensure ~~to practice as a~~
15 hearing aid instrument ~~dispensing and fitting~~ specialist who has
16 met the education and examination requirements in section 38-1512,
17 who passed the examination more than three years prior to the
18 time of application for licensure, and who is not practicing
19 at the time of application for licensure shall present proof
20 satisfactory to the department that he or she has within the three
21 years immediately preceding the application for licensure completed
22 continuing competency requirements approved by the board pursuant
23 to section 38-145.

24 Sec. 34. Section 38-1516, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 38-1516 An applicant for licensure ~~to practice as a~~
27 hearing aid instrument ~~dispensing and fitting~~ specialist who has

1 met the standards set by the board pursuant to section 38-126 for
2 a license based on licensure in another jurisdiction but is not
3 practicing at the time of application for licensure shall present
4 proof satisfactory to the department that he or she has within
5 the three years immediately preceding the application for licensure
6 completed continuing competency requirements approved by the board
7 pursuant to section 38-145.

8 Sec. 35. Section 38-1517, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 38-1517 In addition to the grounds for disciplinary
11 action found in sections 38-178 and 38-179, a credential issued
12 under the Hearing Aid Instrument ~~Dispensers and Fitters~~ Specialists
13 Practice Act may be denied, refused renewal, limited, revoked, or
14 suspended or have other disciplinary measures taken against it in
15 accordance with section 38-196 when the applicant or credential
16 holder is found guilty of any of the following acts or offenses:

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

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

27 (3) Violation of any provision of the Hearing Aid

1 ~~Instrument Dispensers and Fitters~~ Specialists Practice Act.

2 Sec. 36. Section 38-1518, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 38-1518 The department shall establish and collect fees
5 for credentialing activities under the Hearing Aid Instrument
6 ~~Dispensers and Fitters~~ Specialists Practice Act as provided in
7 sections 38-151 to 38-157.

8 Sec. 37. Section 38-2008, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 38-2008 Approved program means a program for the
11 education of physician assistants which is approved by the
12 Accreditation Review Commission on Education for the Physician
13 Assistant or its predecessor or successor agency and which the
14 board formally approves.

15 Sec. 38. Section 38-2014, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 38-2014 Physician assistant means any person who
18 graduates from a program approved by the Commission on
19 Accreditation of Allied Health Education Programs or its
20 predecessor or successor agency and the board, an approved program,
21 who satisfactorily completes has passed a proficiency examination,
22 and whom the department, with the recommendation of the board,
23 approves to perform medical services under the supervision of a
24 physician, ~~or group of physicians approved by the department, with~~
25 ~~the recommendation of the board, to supervise such assistant.~~

26 Sec. 39. Section 38-2015, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 38-2015 Proficiency examination means the ~~initial~~
2 ~~proficiency examination approved by the board for the licensure~~
3 ~~of physician assistants, including, but not limited to, the~~
4 ~~examination Physician Assistant National Certifying Examination~~
5 administered by the National Commission on Certification of
6 Physician Assistants, ~~or other national organization established~~
7 ~~for such purpose that is recognized by the board.~~

8 Sec. 40. Section 38-2017, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 38-2017 Supervising physician means ~~(1) a board-approved~~
11 ~~physician who utilizes a licensed physician who supervises a~~
12 ~~physician assistant. or (2) a backup physician.~~

13 Sec. 41. Section 38-2018, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 38-2018 Supervision means the ready availability of
16 the supervising physician for consultation and direction of the
17 activities of the physician assistant. Contact with the supervising
18 physician by telecommunication shall be sufficient to show ready
19 availability, ~~if the board finds that such contact is sufficient to~~
20 ~~provide quality medical care. The level of supervision may vary by~~
21 ~~geographic location as provided in section 38-2047.~~

22 Sec. 42. Section 38-2037, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 38-2037 In addition to the grounds for disciplinary
25 action found in sections 38-178 and 38-179, a license to practice
26 medicine and surgery or osteopathic medicine and surgery or a
27 license to practice as a physician assistant may be denied, refused

1 renewal, limited, revoked, or suspended or have other disciplinary
2 measures taken against it in accordance with section 38-196 when
3 the applicant or licensee fails to comply with the provisions
4 of section 71-603.01, 71-604, 71-605, or 71-606 relating to the
5 signing of birth and death certificates.

6 Sec. 43. Section 38-2047, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 38-2047 ~~(1)~~ Notwithstanding any other provision of law,
9 a physician assistant may perform medical services when he or
10 she renders such services under the supervision of a licensed
11 physician or group of physicians approved by the department, with
12 the recommendation of the board, in the specialty area or areas
13 for which the physician assistant shall be trained or experienced.
14 Any physician assistant licensed under the Medicine and Surgery
15 Practice Act to perform services may perform those services only:

16 (a) In the office of the supervising physician where such
17 physician maintains his or her primary practice,

18 (b) In any other office which is operated by the
19 supervising physician with the personal presence of the supervising
20 physician. The physician assistant may function without the
21 personal presence of the supervising physician in an office
22 other than where such physician maintains his or her primary
23 practice as provided in subsection ~~(2)~~ of this section and when
24 approved on an individual basis by the department, with the
25 recommendation of the board. Any such approval shall require site
26 visits by the supervising physician, regular reporting to the
27 supervising physician by the physician assistant, and arrangements

1 for supervision at all times by the supervising physician which are
2 sufficient to provide quality medical care;

3 (c) In a hospital, with the approval of the governing
4 board of such hospital, where the supervising physician is a
5 member of the staff and the physician assistant is subject to the
6 rules and regulations of the hospital. Such rules and regulations
7 may include, but need not be limited to, reasonable requirements
8 that physician assistants and the supervising physician maintain
9 professional liability insurance with such coverage and limits
10 as may be established by the hospital governing board, upon the
11 recommendation of the medical staff; or

12 (d) On calls outside such offices, when authorized by the
13 supervising physician and with the approval of the governing board
14 of any affected hospital.

15 (1) A physician assistant may perform medical services
16 that (a) are delegated by and provided under the supervision of a
17 licensed physician, (b) are appropriate to the level of competence
18 of the physician assistant, (c) form a component of the supervising
19 physician's scope of practice, and (d) are not otherwise prohibited
20 by law.

21 (2) A physician assistant shall be considered an agent
22 of his or her supervising physician in the performance of
23 practice-related activities delegated by the supervising physician,
24 including, but not limited to, ordering diagnostic, therapeutic,
25 and other medical services.

26 (3) Each physician assistant and his or her supervising
27 physician shall be responsible to ensure that (a) the scope

1 of practice of the physician assistant is identified, (b) the
2 delegation of medical tasks is appropriate to the level of
3 competence of the physician assistant, (c) the relationship of and
4 access to the supervising physician is defined, and (d) a process
5 for evaluation of the performance of the physician assistant is
6 established.

7 (4) A physician assistant may pronounce death and may
8 authenticate with his or her signature any form that may be
9 authenticated by a physician's signature if the authentication
10 is within the scope of practice of the physician assistant, is
11 delegated by his or her supervising physician, and is not otherwise
12 prohibited by law.

13 (5) In order for a physician assistant to practice in a
14 hospital, (a) his or her supervising physician shall be a member
15 of the medical staff of the hospital, (b) the physician assistant
16 shall be approved by the governing board of the hospital, and
17 (c) the physician assistant shall comply with applicable hospital
18 policies, including, but not limited to, reasonable requirements
19 that the physician assistant and the supervising physician maintain
20 professional liability insurance with such coverage and limits as
21 established by the governing board of the hospital.

22 ~~(2) The~~ (6) For physician assistants with less than
23 two years of experience, the department, with the recommendation
24 of the board, shall adopt and promulgate rules and regulations
25 establishing minimum requirements for the personal presence of the
26 supervising physician, stated in hours or percentage of practice
27 time, and ~~The board~~ may provide different minimum requirements

1 for the personal presence of the supervising physician based on
2 the geographic location of the supervising physician's primary and
3 other practice sites and other factors the board deems relevant.

4 (7) A physician assistant may render services in a
5 setting geographically remote from the supervising physician,
6 except that a physician assistant with less than two years of
7 experience shall comply with standards of supervision established
8 in rules and regulations adopted and promulgated under the Medicine
9 and Surgery Practice Act. The board may consider an application
10 for waiver of the standards and may waive the standards upon a
11 showing of good cause by the supervising physician. The department
12 may adopt and promulgate rules and regulations establishing minimum
13 requirements for such waivers.

14 Sec. 44. Section 38-2049, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 38-2049 (1) The department, with the recommendation of
17 the board, shall issue licenses to persons who are graduates of
18 ~~physician assistant programs approved by the board~~ an approved
19 program and have ~~satisfactorily completed~~ passed a proficiency
20 examination.

21 (2) The department, with the recommendation of the board,
22 shall issue temporary licenses to persons who have successfully
23 completed an approved program ~~for the education and training of~~
24 ~~physician assistants~~ but who have not yet passed a proficiency
25 examination. Any temporary license issued pursuant to this
26 subsection shall be issued for a period not to exceed one year
27 and under such conditions as determined by the department, with

1 the recommendation of the board. Upon a showing of good cause, the
2 The temporary license may be extended by the department, with the
3 recommendation of the board.

4 ~~(3) The board may recognize groups of specialty~~
5 ~~classifications of training for physician assistants. These~~
6 ~~classifications shall reflect the training and experience of the~~
7 ~~physician assistant. The physician assistant may receive training~~
8 ~~in one or more such classifications which shall be shown on the~~
9 ~~license issued.~~

10 ~~(4) (3)~~ Physician assistants approved by the board
11 prior to April 16, 1985, shall not be required to complete
12 the proficiency examination.

13 Sec. 45. Section 38-2050, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 38-2050 ~~(1)~~ The department, with the recommendation of
16 the board, shall formulate guidelines for the consideration of
17 applications by a licensed physician or physicians to supervise
18 physician assistants. Any application made by a physician or
19 physicians shall include all of the following:

20 ~~(a) The qualifications, including related experience, of~~
21 ~~the physician assistant intended to be employed;~~

22 ~~(b) The professional background and specialty of the~~
23 ~~physician or physicians; and~~

24 ~~(c) A description by the physician of his or her, or~~
25 ~~physicians of their, practice and the way in which the assistant or~~
26 ~~assistants shall be utilized. The application shall provide for the~~
27 ~~personal presence of the supervising physician in conformance with~~

1 requirements established by the department, with the recommendation
2 of the board, under section 38-2047.

3 ~~(2) The department, with the recommendation of the board,~~
4 ~~shall approve an application by a licensed physician to supervise a~~
5 ~~physician assistant when the department, with the recommendation of~~
6 ~~the board, is satisfied that the proposed assistant is a graduate~~
7 ~~of an approved program, has satisfactorily completed a proficiency~~
8 ~~examination, and is fully qualified to perform medical services~~
9 ~~under the responsible supervision of a licensed physician. The~~
10 ~~public shall be adequately protected by the arrangement proposed in~~
11 ~~the application.~~

12 ~~(3) The department, with the recommendation of the board,~~
13 ~~shall approve no more than two physician assistants for any~~
14 ~~practicing physician, except that this limitation may be waived~~
15 ~~by the department, with the recommendation of the board, upon a~~
16 ~~showing of good cause by the practicing physician.~~

- 17 (1) To be a supervising physician, a person shall:
18 (a) Be licensed to practice medicine and surgery under
19 the Uniform Credentialing Act;
20 (b) Have no restriction imposed by the board on his or
21 her ability to supervise a physician assistant; and
22 (c) Maintain an agreement with the physician assistant as
23 provided in subsection (2) of this section.

24 (2) (a) An agreement between a supervising physician and
25 a physician assistant shall (i) provide that the supervising
26 physician will exercise supervision over the physician assistant in
27 accordance with the Medicine and Surgery Practice Act and the rules

1 and regulations adopted and promulgated under the act relating to
2 such agreements, (ii) define the scope of practice of the physician
3 assistant, (iii) provide that the supervising physician will retain
4 professional and legal responsibility for medical services rendered
5 by the physician assistant pursuant to such agreement, and (iv) be
6 signed by the supervising physician and the physician assistant.

7 (b) The supervising physician shall keep the agreement on
8 file at his or her primary practice site, shall keep a copy of
9 the agreement on file at each practice site where the physician
10 assistant provides medical services, and shall make the agreement
11 available to the board and the department upon request.

12 (3) Supervision of a physician assistant by a supervising
13 physician shall be continuous but shall not require the physical
14 presence of the supervising physician at the time and place that
15 the services are rendered.

16 (4) A supervising physician may supervise no more than
17 four physician assistants at any one time. The board may consider
18 an application for waiver of this limit and may waive the
19 limit upon a showing that the supervising physician meets the
20 minimum requirements for the waiver. The department may adopt and
21 promulgate rules and regulations establishing minimum requirements
22 for such waivers.

23 Sec. 46. Section 38-2055, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 38-2055 A physician assistant may prescribe drugs and
26 devices as delegated to do so by a supervising physician. Any
27 limitation placed by the supervising physician on the prescribing

1 authority of the physician assistant shall be recorded on the
2 physician assistant's scope of practice agreement established
3 pursuant to rules and regulations adopted and promulgated
4 under the Medicine and Surgery Practice Act. All prescriptions
5 and prescription container labels shall bear the name of ~~the~~
6 ~~supervising physician and the physician assistant~~ and, if required
7 for purposes of reimbursement, the name of the supervising
8 physician. A physician assistant to whom has been delegated
9 the authority to prescribe controlled substances shall obtain a
10 federal Drug Enforcement Administration registration number. ~~When~~
11 ~~prescribing Schedule II controlled substances, the prescription~~
12 ~~container label shall bear all information required by the federal~~
13 ~~Controlled Substances Act of 1970.~~

14 Sec. 47. Section 38-2801, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 38-2801 Sections 38-2801 to 38-28,103 and section 49 of
17 this act shall be known and may be cited as the Pharmacy Practice
18 Act.

19 Sec. 48. Section 38-2802, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 38-2802 For purposes of the Pharmacy Practice Act and
22 elsewhere in the Uniform Credentialing Act, unless the context
23 otherwise requires, the definitions found in sections 38-2803 to
24 38-2848 and section 49 of this act apply.

25 Sec. 49. Long-term care facility means an intermediate
26 care facility, an intermediate care facility for the mentally
27 retarded, a long-term care hospital, a mental health center, a

1 nursing facility, or a skilled nursing facility, as such terms are
2 defined in the Health Care Facility Licensure Act.

3 Sec. 50. Section 38-2871, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 38-2871 Original prescription information for any
6 controlled substances listed in Schedule III, IV, or V of section
7 28-405 and other prescription drugs or devices not listed in
8 section 28-405 may be transferred between pharmacies for the
9 purpose of refill dispensing on a one-time basis, except that
10 pharmacies electronically accessing a real-time, on-line data base
11 may transfer up to the maximum refills permitted by law and as
12 authorized by the prescribing practitioner on the face of the
13 prescription. Transfers are subject to the following:

14 (1) The transfer is communicated directly between two
15 pharmacists or pharmacist interns except when the pharmacies can
16 use a real-time, on-line data base;

17 (2) The transferring pharmacist or pharmacist intern
18 indicates void on the record of the prescription; ~~except when a~~
19 ~~single refill is transferred for emergency or traveling purposes;~~

20 (3) The transferring pharmacist or pharmacist intern
21 indicates on the record of the prescription the name, the address,
22 and, if a controlled substance, the Drug Enforcement Administration
23 number of the pharmacy to which the information was transferred,
24 the name of the pharmacist or pharmacist intern receiving the
25 information, the date of transfer, and the name of the transferring
26 pharmacist or pharmacist intern;

27 (4) The receiving pharmacist or pharmacist intern

1 indicates on the record of the transferred prescription that the
2 prescription is transferred;

3 (5) The transferred prescription includes the following
4 information:

5 (a) The date of issuance of the original prescription;

6 (b) The original number of refills authorized;

7 (c) The date of original dispensing;

8 (d) The number of valid refills remaining;

9 (e) The date and location of last refill; and

10 (f) The name, the address, and, if a controlled
11 substance, the Drug Enforcement Administration number of the
12 pharmacy from which the transfer was made, the name of the
13 pharmacist or pharmacist intern transferring the information, the
14 original prescription number, and the date of transfer; and

15 (6) Both the original and transferred prescriptions must
16 be maintained by the transferring and receiving pharmacy for a
17 period of five years from the date of transfer.

18 Sec. 51. Section 48-120, Revised Statutes Cumulative
19 Supplement, 2008, is amended to read:

20 48-120 (1)(a) The employer is liable for all reasonable
21 medical, surgical, and hospital services, including plastic surgery
22 or reconstructive surgery but not cosmetic surgery when the injury
23 has caused disfigurement, appliances, supplies, prosthetic devices,
24 and medicines as and when needed, which are required by the nature
25 of the injury and which will relieve pain or promote and hasten
26 the employee's restoration to health and employment, and includes
27 damage to or destruction of artificial members, dental appliances,

1 teeth, hearing aids, instruments, and eyeglasses, but, in the case
2 of dental appliances, hearing aids, instruments, or eyeglasses,
3 only if such damage or destruction resulted from an accident which
4 also caused personal injury entitling the employee to compensation
5 therefor for disability or treatment, subject to the approval of
6 and regulation by the Nebraska Workers' Compensation Court, not to
7 exceed the regular charge made for such service in similar cases.

8 (b) Except as provided in section 48-120.04, the
9 compensation court shall establish schedules of fees for such
10 services. The compensation court shall review such schedules at
11 least biennially and adopt appropriate changes when necessary. The
12 compensation court may contract with any person, firm, corporation,
13 organization, or government agency to secure adequate data to
14 establish such fees. The compensation court shall publish and
15 furnish to the public the fee schedules established pursuant to
16 this subdivision and section 48-120.04. The compensation court may
17 establish and charge a fee to recover the cost of published fee
18 schedules.

19 (c) Reimbursement for inpatient hospital services
20 provided by hospitals located in or within fifteen miles of a
21 Nebraska city of the metropolitan class or primary class and by
22 other hospitals with fifty-one or more licensed beds shall be
23 according to the Diagnostic Related Group inpatient hospital fee
24 schedule established in section 48-120.04.

25 (d) A workers' compensation insurer, risk management
26 pool, self-insured employer, or managed care plan certified
27 pursuant to section 48-120.02 may contract with a provider or

1 provider network for medical, surgical, or hospital services. Such
2 contract may establish fees for services different than the fee
3 schedules established under subdivision (1)(b) of this section or
4 established under section 48-120.04. Such contract shall be in
5 writing and mutually agreed upon prior to the date services are
6 provided.

7 (e) The provider or supplier of such services shall
8 not collect or attempt to collect from any employer, insurer,
9 government, or injured employee or dependent or the estate of any
10 injured or deceased employee any amount in excess of (i) the fee
11 established by the compensation court for any such service, (ii)
12 the fee established under section 48-120.04, or (iii) the fee
13 contracted under subdivision (1)(d) of this section.

14 (2)(a) The employee has the right to select a physician
15 who has maintained the employee's medical records prior to an
16 injury and has a documented history of treatment with the employee
17 prior to an injury or a physician who has maintained the medical
18 records of an immediate family member of the employee prior to an
19 injury and has a documented history of treatment with an immediate
20 family member of the employee prior to an injury. For purposes of
21 this subsection, immediate family member means the employee's
22 spouse, children, parents, stepchildren, and stepparents. The
23 employer shall notify the employee following an injury of such
24 right of selection in a form and manner and within a timeframe
25 established by the compensation court. If the employer fails to
26 notify the employee of such right of selection or fails to notify
27 the employee of such right of selection in a form and manner and

1 within a timeframe established by the compensation court, then the
2 employee has the right to select a physician. If the employee
3 fails to exercise such right of selection in a form and manner and
4 within a timeframe established by the compensation court following
5 notice by the employer pursuant to this subsection, then the
6 employer has the right to select the physician. If selection of the
7 initial physician is made by the employee or employer pursuant to
8 this subsection following notice by the employer pursuant to this
9 subsection, the employee or employer shall not change the initial
10 selection of physician made pursuant to this subsection unless such
11 change is agreed to by the employee and employer or is ordered by
12 the compensation court pursuant to subsection (6) of this section.
13 If compensability is denied by the workers' compensation insurer,
14 risk management pool, or self-insured employer, (i) the employee
15 has the right to select a physician and shall not be made to
16 enter a managed care plan and (ii) the employer is liable for
17 medical, surgical, and hospital services subsequently found to be
18 compensable. If the employer has exercised the right to select
19 a physician pursuant to this subsection and if the compensation
20 court subsequently orders reasonable medical services previously
21 refused to be furnished to the employee by the physician selected
22 by the employer, the compensation court shall allow the employee
23 to select another physician to furnish further medical services.
24 If the employee selects a physician located in a community not the
25 home or place of work of the employee and a physician is available
26 in the local community or in a closer community, no travel expenses
27 shall be required to be paid by the employer or his or her workers'

1 compensation insurer.

2 (b) In cases of injury requiring dismemberment or
3 injuries involving major surgical operation, the employee may
4 designate to his or her employer the physician or surgeon to
5 perform the operation.

6 (c) If the injured employee unreasonably refuses or
7 neglects to avail himself or herself of medical or surgical
8 treatment furnished by the employer, except as herein and otherwise
9 provided, the employer is not liable for an aggravation of such
10 injury due to such refusal and neglect and the compensation court
11 or judge thereof may suspend, reduce, or limit the compensation
12 otherwise payable under the Nebraska Workers' Compensation Act.

13 (d) If, due to the nature of the injury or its occurrence
14 away from the employer's place of business, the employee or the
15 employer is unable to select a physician using the procedures
16 provided by this subsection, the selection requirements of this
17 subsection shall not apply as long as the inability to make a
18 selection persists.

19 (e) The physician selected may arrange for any
20 consultation, referral, or extraordinary or other specialized
21 medical services as the nature of the injury requires.

22 (f) The employer is not responsible for medical services
23 furnished or ordered by any physician or other person selected
24 by the employee in disregard of this section. Except as otherwise
25 provided by the Nebraska Workers' Compensation Act, the employer is
26 not liable for medical, surgical, or hospital services or medicines
27 if the employee refuses to allow them to be furnished by the

1 employer.

2 (3) No claim for such medical treatment is valid and
3 enforceable unless, within fourteen days following the first
4 treatment, the physician giving such treatment furnishes the
5 employer a report of such injury and treatment on a form prescribed
6 by the compensation court. The compensation court may excuse the
7 failure to furnish such report within fourteen days when it finds
8 it to be in the interest of justice to do so.

9 (4) All physicians and other providers of medical
10 services attending injured employees shall comply with all the
11 rules and regulations adopted and promulgated by the compensation
12 court and shall make such reports as may be required by it at
13 any time and at such times as required by it upon the condition
14 or treatment of any injured employee or upon any other matters
15 concerning cases in which they are employed. All medical and
16 hospital information relevant to the particular injury shall,
17 on demand, be made available to the employer, the employee,
18 the workers' compensation insurer, and the compensation court.
19 The party requesting such medical and hospital information shall
20 pay the cost thereof. No such relevant information developed in
21 connection with treatment or examination for which compensation is
22 sought shall be considered a privileged communication for purposes
23 of a workers' compensation claim. When a physician or other
24 provider of medical services willfully fails to make any report
25 required of him or her under this section, the compensation court
26 may order the forfeiture of his or her right to all or part of
27 payment due for services rendered in connection with the particular

1 case.

2 (5) Whenever the compensation court deems it necessary,
3 in order to assist it in resolving any issue of medical fact or
4 opinion, it shall cause the employee to be examined by a physician
5 or physicians selected by the compensation court and obtain from
6 such physician or physicians a report upon the condition or matter
7 which is the subject of inquiry. The compensation court may charge
8 the cost of such examination to the workers' compensation insurer.
9 The cost of such examination shall include the payment to the
10 employee of all necessary and reasonable expenses incident to such
11 examination, such as transportation and loss of wages.

12 (6) The compensation court shall have the authority
13 to determine the necessity, character, and sufficiency of any
14 medical services furnished or to be furnished and shall have
15 authority to order a change of physician, hospital, rehabilitation
16 facility, or other medical services when it deems such change is
17 desirable or necessary. Any dispute regarding medical, surgical,
18 or hospital services furnished or to be furnished under this
19 section may be submitted by the parties, the supplier of such
20 service, or the compensation court on its own motion for informal
21 dispute resolution by a staff member of the compensation court or
22 an outside mediator pursuant to section 48-168. In addition,
23 any party or the compensation court on its own motion may
24 submit such a dispute for a medical finding by an independent
25 medical examiner pursuant to section 48-134.01. Issues submitted
26 for informal dispute resolution or for a medical finding by an
27 independent medical examiner may include, but are not limited

1 to, the reasonableness and necessity of any medical treatment
2 previously provided or to be provided to the injured employee. The
3 compensation court may adopt and promulgate rules and regulations
4 regarding informal dispute resolution or the submission of disputes
5 to an independent medical examiner that are considered necessary to
6 effectuate the purposes of this section.

7 (7) For the purpose of this section, physician has the
8 same meaning as in section 48-151.

9 (8) The compensation court shall order the employer to
10 make payment directly to the supplier of any services provided
11 for in this section or reimbursement to anyone who has made any
12 payment to the supplier for services provided in this section. No
13 such supplier or payor may be made or become a party to any action
14 before the compensation court.

15 (9) Notwithstanding any other provision of this section,
16 a workers' compensation insurer, risk management pool, or
17 self-insured employer may contract for medical, surgical, hospital,
18 and rehabilitation services to be provided through a managed care
19 plan certified pursuant to section 48-120.02. Once liability for
20 medical, surgical, and hospital services has been accepted or
21 determined, the employer may require that employees subject to
22 the contract receive medical, surgical, and hospital services in
23 the manner prescribed in the contract, except that an employee
24 may receive services from a physician selected by the employee
25 pursuant to subsection (2) of this section if the physician so
26 selected agrees to refer the employee to the managed care plan
27 for any other treatment that the employee may require and if

1 the physician so selected agrees to comply with all the rules,
2 terms, and conditions of the managed care plan. If compensability
3 is denied by the workers' compensation insurer, risk management
4 pool, or self-insured employer, the employee may leave the managed
5 care plan and the employer is liable for medical, surgical, and
6 hospital services previously provided. The workers' compensation
7 insurer, risk management pool, or self-insured employer shall give
8 notice to employees subject to the contract of eligible service
9 providers and such other information regarding the contract and
10 manner of receiving medical, surgical, and hospital services under
11 the managed care plan as the compensation court may prescribe.

12 Sec. 52. Section 69-2603, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 69-2603 Assistive device means any device, including a
15 demonstrator, that a consumer purchases or accepts transfer of in
16 this state which is used for a major life activity, including,
17 but not limited to, manual wheelchairs, motorized wheelchairs,
18 motorized scooters, and other aides that enhance the mobility of
19 an individual; hearing aids, instruments, telephone communication
20 devices for the deaf (TTY), assistive listening devices, and
21 other aides that enhance an individual's ability to hear; voice
22 synthesized computer modules, optical scanners, talking software,
23 braille printers, and other devices that enhance a sight-impaired
24 individual's ability to communicate; environmental control units;
25 and any other assistive device that enables a person with a
26 disability to communicate, see, hear, or maneuver.

27 Sec. 53. Section 71-201, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-201 No person shall practice or attempt to practice
3 barbering without a license issued pursuant to the Barber Act by
4 the board. It shall be unlawful to operate a barber shop unless it
5 is at all times under the direct supervision and management of a
6 licensed barber.

7 No person, partnership, limited liability company, or
8 corporation shall operate a barber shop or barber school until
9 a license has been obtained for that purpose from the board. If
10 the applicant is an individual, the application shall include the
11 applicant's social security number. No person shall lease space
12 on the premises of a barber shop to engage in the practice of
13 barbering as an independent contractor or a self-employed person
14 without obtaining a booth rental permit as provided in section 60
15 of this act. All barber shop licenses and booth rental permits
16 shall be issued on or before June 30 of each even-numbered year,
17 shall be effective as of July 1 of each even-numbered year, shall
18 be good valid for one year, two years, and shall expire on the
19 succeeding June 30 of the next succeeding even-numbered year.

20 Any barber shop which fails to renew its license or any
21 person who fails to renew his or her booth rental permit on or
22 before the expiration date may renew such license or booth rental
23 permit by payment of the renewal fee and a late renewal fee
24 established by the board within sixty days after such date or such
25 other time period as the board establishes.

26 Any barber shop or barber school license and any booth
27 rental permit may be suspended, revoked, or denied renewal by the

1 board for violation of any provision of the statutes or any rule or
2 regulation of the board pertaining to the operation or sanitation
3 of barber shops, ~~or~~ barber schools, or booths under a booth rental
4 permit after due notice and hearing before the board.

5 No person, partnership, limited liability company, or
6 corporation shall use the title of barber or barber shop or
7 indicate in any way that such person or entity offers barbering
8 services unless such person or entity is licensed pursuant to
9 the act. No person, partnership, limited liability company, or
10 corporation shall hold itself out as a barber shop or indicate
11 in any way that such person or entity offers barbering services
12 unless such person or entity and the personnel who purport to offer
13 barbering services in association with such person or entity are
14 licensed pursuant to the act.

15 No person, partnership, limited liability company, or
16 corporation shall display a barber pole or use a barber pole or
17 the image of a barber pole in its advertising unless such person
18 or entity is licensed to provide barbering services pursuant to the
19 act and the display or use of such barber pole or barber pole image
20 is to indicate that the person or entity is offering barbering
21 services.

22 Sec. 54. Section 71-208.02, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-208.02 (1) All instruction in barber schools shall be
25 conducted by registered barber instructors or registered assistant
26 barber instructors.

27 (2) A person shall be eligible for registration as a

1 barber instructor if:

2 (a) He or she has completed at least eighteen hours
3 of college credit at or above the postsecondary level, including
4 at least three credit hours each in (i) methods of teaching,
5 (ii) curriculum development, (iii) special vocational needs,
6 (iv) educational psychology, (v) speech communications, and (vi)
7 introduction to business;

8 (b) He or she has been a licensed and actively practicing
9 barber for the one year immediately preceding application, except
10 that for good cause the board may waive the requirement that the
11 applicant be an actively practicing barber for one year or that
12 such year immediately precede application;

13 (c) He or she has served as a registered assistant barber
14 instructor under the ~~direct inhouse~~ supervision of an active,
15 full-time, registered barber instructor, as provided in subsection
16 (5) of this section, for one year immediately preceding application
17 for registration, except that for good cause the board may waive
18 the requirement that such year immediately precede application;

19 (d) He or she has passed an examination prescribed by the
20 board; and

21 (e) He or she has paid the fees prescribed by section
22 71-219.

23 (3) One registered barber instructor or assistant barber
24 instructor shall be employed for each fifteen students, or fraction
25 thereof, enrolled in a barber school, except that each barber
26 school shall have not less than two instructors, one of whom
27 shall be a registered barber instructor, regardless of the number

1 of students. Additional assistant barber instructors shall be
2 permitted on a working ratio of two assistant barber instructors
3 for every registered barber instructor. A barber school operated
4 by a nonprofit organization which neither charges any tuition to
5 its students nor makes any charge to the persons upon whom work is
6 performed shall not be required to have more than one instructor,
7 regardless of the number of students, which instructor shall be a
8 registered barber instructor.

9 (4) No student at a barber school shall be permitted to
10 do any practical work upon any person unless a registered barber
11 instructor or registered assistant barber instructor is on the
12 premises and supervising the practical work being performed.

13 (5) (a) A person shall be eligible for registration as
14 an assistant barber instructor if he or she has paid the fee
15 prescribed by section 71-219, has been a licensed and actively
16 practicing barber for one year, and is currently enrolled or
17 will enroll at the first regular college enrollment date after
18 registration under this section in an educational program leading
19 to completion of the hours required under subsection (2) of this
20 section.

21 (b) A person registered pursuant to subdivision (a) of
22 this subsection shall serve as an assistant barber instructor under
23 direct supervision, except that he or she may serve as an assistant
24 barber instructor under indirect supervision if:

25 (i) He or she has completed nine college credit
26 hours, including three credit hours each in methods of teaching,
27 curriculum development, and special vocational needs; and

1 (ii) He or she has completed one year of instructor
2 training under the direct inhouse supervision of an active,
3 full-time, registered barber instructor or in lieu thereof has
4 completed the requirements of a barber instructor course developed
5 or approved by the board. The board may develop such courses
6 or approve courses developed by educational institutions or other
7 entities which meet requirements established by the board in rules
8 and regulations.

9 (c) A report of college credits earned pursuant to
10 subsection (2) of this section shall be submitted to the board at
11 the end of each academic year. Registration as an assistant barber
12 instructor shall be renewed annually in each even-numbered year
13 and shall be valid for three years from the date of registration
14 if the registrant pursues without interruption the educational
15 program described in subsection (2) of this section. A registrant
16 who fails to so maintain such program shall have his or her
17 registration revoked. Any such registration that has been revoked
18 shall be reinstated if all renewal fees have been paid and other
19 registration requirements of this subsection are met.

20 (6) A person who is a registered barber instructor before
21 September 9, 1993, may continue to practice as a registered barber
22 instructor on and after such date without meeting the changes in
23 the registration requirements of this section imposed by Laws 1993,
24 LB 226. A person who is a registered assistant barber instructor
25 before September 9, 1993, and who seeks to register as a barber
26 instructor on or after September 9, 1993, may meet the requirements
27 for registration as a barber instructor either as such requirements

1 existed before such date or as such requirements exist on or after
2 such date.

3 Sec. 55. Section 71-208.06, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-208.06 The license as a registered barber instructor
6 shall be issued on or before June 30 of each even-numbered year
7 effective as of July 1 of each even-numbered year and shall expire
8 ~~on the next succeeding June 30-~~ as provided in section 71-216. The
9 license application shall include the applicant's social security
10 number.

11 Sec. 56. Section 71-216, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-216 Every registered barber instructor and licensed
14 barber who continues in active practice or service shall on
15 or before June 30 of each even-numbered year renew his or her
16 license or registration and pay the required fee. Such license or
17 registration shall be effective as of July 1 of each even-numbered
18 year and shall terminate on June 30 of the next succeeding
19 even-numbered year.

20 Every registered assistant barber instructor shall,
21 subject to the requirements of section 71-208.02, renew his or her
22 registration on or before its expiration date during the period of
23 its validity established by such section and pay the required fee.

24 Every barber school shall on or before June 30 of each
25 even-numbered year obtain renewal of its license and pay the
26 required fee. Such renewal shall be effective as of July 1 of
27 each even-numbered year and shall expire on June 30 of the next

1 succeeding even-numbered year.

2 Any licensed barber, registered barber instructor,
3 registered assistant barber instructor, or barber school which
4 fails to renew his, her, or its license or registration on or
5 before the expiration date may renew such license or registration
6 by payment of the renewal fee and a late renewal fee established
7 by the board within sixty days after such date or such other time
8 period as the board establishes.

9 Any barber on inactive status or who withdraws from the
10 active practice of barbering may renew his or her license within
11 five years of its expiration date upon the payment of the required
12 restoration fee. Any barber who fails to renew his or her license
13 for five consecutive years shall be required to successfully
14 complete the examination for issuance of a new license.

15 Sec. 57. Section 71-219, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-219 The board shall set the fees to be paid:

18 (1) By an applicant for an examination to determine his
19 or her fitness to receive a license to practice barbering or a
20 registration as a barber instructor and for the issuance of the
21 license or registration;

22 (2) By an applicant for registration as an assistant
23 barber instructor;

24 (3) For the renewal of a license to practice barbering
25 and for restoration of an inactive license;

26 (4) For the renewal of a registration to practice as
27 a barber instructor and for the restoration of an inactive

1 registration;

2 (5) For renewal of a registration to practice as an
3 assistant barber instructor;

4 (6) For late renewal of a license issued under the Barber
5 Act;

6 (7) For an application for a license to establish a
7 barber shop or barber school and for the issuance of a license;

8 (8) For the transfer of license or change of ownership of
9 a barber shop or barber school;

10 (9) For renewal of a barber license, barber instructor
11 registration, barber shop license, or barber school license;

12 (10) For an application for a temporary license to
13 conduct classes of instruction in barbering;

14 (11) For an affidavit for purposes of reciprocity or
15 for issuance of a certification of licensure for purposes of
16 reciprocity;

17 (12) For an application for licensure without examination
18 pursuant to section 64 of this act and for the issuance of a
19 license pursuant to such section;

20 (13) For issuance of a booth rental permit under section
21 60 of this act;

22 ~~(12)~~ (14) For the sale of listings or labels; and

23 ~~(13)~~ (15) For a returned check because of insufficient
24 funds or no funds.

25 Sec. 58. Section 71-219.01, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-219.01 Application for a license to operate a barber

1 school or college shall be made on a form furnished by the
2 board. It shall contain such information relative to ownership,
3 management, instructors, number of students, and other data
4 concerning such business as may be required by the board. The board
5 shall collect, in addition to the ~~annual~~ approval fee, a fee in
6 an amount set by the board for every barber school opened after
7 August 27, 1971. The ~~annual~~ fee for approval of a barber school
8 or college, the fee for reinstatement of a delinquent license, and
9 the fee for the transfer of license or change of ownership of a
10 barber school or college shall be set by the board. No fee shall
11 be collected if the change in ownership is caused by a present
12 license owner incorporating.

13 Sec. 59. Section 71-219.02, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-219.02 Application for a license to establish a
16 barber shop shall be made on a form furnished by the board. It
17 shall contain such information relative to ownership, management,
18 sanitation, and other data concerning such business as may
19 be required by the board. The board shall collect with such
20 application, in addition to the ~~annual~~ license fee, ~~paid for that~~
21 ~~year~~, a fee to be set by the board. A fee shall be collected for
22 the transfer of license or change of ownership of a barber shop,
23 but no fee shall be collected if the ownership results merely from
24 a present license holder incorporating his or her business. Every
25 barber shop shall be called upon by the state barber inspector at
26 least once each ~~year~~ licensing period for the purpose of inspection
27 in order to be eligible for ~~an annual~~ a permit to conduct a barber

1 shop, and no license shall be issued unless all deficiencies found
2 by inspection of such shop have been corrected.

3 Sec. 60. (1) Any barber who leases space on the premises
4 of a barber shop to engage in the practice of barbering as an
5 independent contractor or a self-employed person shall obtain a
6 booth rental permit.

7 (2) An application for a booth rental permit shall be
8 made on a form furnished by the board and shall include the
9 applicant's name, barber license number, telephone number, and work
10 address, whether the applicant is an independent contractor or
11 a self-employed person, and such other information as the board
12 deems necessary. The applicant's mailing address shall be the work
13 address shown on the permit application.

14 (3) The board shall issue a booth rental permit upon
15 receipt of an application containing the information required under
16 subsection (2) of this section and the fee established pursuant to
17 section 71-219.

18 (4) The holder of a booth rental permit shall provide the
19 board with ten days' written notice before changing his or her work
20 address.

21 Sec. 61. Section 71-223.01, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-223.01 The board shall by rules and regulations duly
24 adopted prescribe sanitary requirements for barber shops and barber
25 schools. The board or its employees shall regularly inspect all
26 barber shops and barber schools in this state to insure compliance
27 with such regulations. Such sanitary requirements and inspections

1 shall include all activities, in addition to barbering as defined
2 in section 71-202, taking place on the licensed premises. A written
3 report of each such inspection made shall be submitted to the
4 ~~barber~~ board. Each school or barber shop shall be called upon at
5 least once each ~~year~~ licensing period for the purpose of inspection
6 prior to the issuance of its license to be eligible for ~~annual~~
7 renewal of certification or registration.

8 Sec. 62. Section 71-224, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-224 Sections 71-201 to 71-248 and sections 60 and 64
11 of this act shall be known and may be cited as the Barber Act.

12 Sec. 63. Section 71-239, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-239 For purposes of recognizing licenses which have
15 been issued in other states or countries to practice barbering as a
16 licensed barber or registered barber instructor, the board may:

17 (1) Enter ~~enter~~ into a reciprocal agreement with any
18 state which is certified to it by the proper examining board under
19 the provisions of section 71-240; and-

20 (2) Provide for licensure without examination as provided
21 in section 64 of this act.

22 Sec. 64. (1) The board may issue a license without
23 examination to a person licensed in a state, territory, or country
24 with which the board has not entered into a reciprocal agreement
25 under section 71-239 as provided in this section.

26 (2) An applicant for licensure without examination under
27 subsection (1) of this section shall file with the board (a) an

1 application on a form provided by the board, (b) a copy of the
2 license issued by the state, territory, or country in which the
3 applicant is licensed, (c) the applicant's social security number,
4 (d) documents demonstrating that the requirements for licensure in
5 such state, territory, or country are substantially equivalent to
6 the requirements for licensure under the Barber Act, and (e) the
7 fee required pursuant to section 71-219.

8 (3) The board shall review each application and the
9 documents submitted under this section and determine within sixty
10 days after receiving such application and documentation whether to
11 issue a license without examination to the applicant. The board
12 shall notify the applicant of its decision within ten days after
13 the date of making the decision. If the board determines not to
14 issue a license without examination to the applicant, he or she
15 may appeal the decision of the board and the appeal shall be in
16 accordance with the Administrative Procedure Act.

17 (4) The board may adopt and promulgate rules and
18 regulations to carry out this section.

19 Sec. 65. Section 71-242, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-242 The board shall not enter into any reciprocal
22 agreement with any state or country with reference to the practice
23 of barbering as a licensed barber or registered barber instructor
24 for which the board conducts examinations unless every person
25 licensed or registered in such state or country when applying for a
26 license to practice in this state shall show:

27 (1) That the requirements for licensure or registration

1 were substantially equal to those in force in this state at the
2 time such license was issued; or

3 (2) Upon due proof that such applicant has continuously
4 practiced the practices or occupation for which application for a
5 license is made at least three years immediately prior to such
6 application.

7 The applicant shall also pay the fee set pursuant to
8 section 71-219 and provide his or her social security number.

9 Any Except as provided in section 64 of this act, any
10 applicant who fails to qualify for such exemption because his or
11 her study or training outside this state does not fulfill the
12 requirements of this section shall receive credit for the number
13 of hours of study and training successfully completed in the
14 particular state where he or she is registered or licensed, and
15 he or she shall be qualified for the examination upon completion
16 of such supplementary study and training in an accredited school
17 of barbering in this state as the board finds necessary to
18 substantially equal the study and training of a qualified person
19 who has studied and trained in an accredited school in this state
20 only. For the purposes of this section, each six months of practice
21 outside of this state of the practices or occupation for which
22 application for a license is made shall be deemed the equivalent of
23 one hundred hours of study and training required in this state in
24 order to qualify for the practice of barbering.

25 Sec. 66. Section 71-245, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-245 The provisions of the Barber Act, relating to

1 applications, transmittal of the names of eligible candidates,
2 certification of successful applicants, and issuance of licenses
3 thereto, in the case of regular examinations, ~~applies~~ apply as
4 far as applicable to applicants for a reciprocal license or for a
5 license issued without examination pursuant to section 64 of this
6 act.

7 Sec. 67. Section 71-604, Revised Statutes Cumulative
8 Supplement, 2008, is amended to read:

9 71-604 (1) A certificate for each live birth which
10 occurs in the State of Nebraska shall be filed on a standard
11 Nebraska certificate form. Such certificate shall be filed with the
12 department within five business days after the birth.

13 (2) When a birth occurs in an institution or en route
14 thereto, the person in charge of the institution or his or her
15 authorized designee shall obtain the personal data, prepare the
16 certificate which shall include the name, title, and address of
17 the attendant, certify that the child was born alive at the place
18 and time and on the date stated either by standard procedure or
19 by an approved electronic process, and file the certificate. The
20 physician, physician assistant, or other person in attendance shall
21 provide the medical information required for the certificate within
22 seventy-two hours after the birth.

23 (3) When a birth occurs outside an institution, the
24 certificate of birth shall be prepared and filed by one of the
25 following:

26 (a) The physician or physician assistant in attendance at
27 or immediately after the birth;

1 (b) The father, the mother, or, in the absence of the
2 father and the inability of the mother, the person in charge of the
3 premises where the birth occurred; or

4 (c) Any other person in attendance at or immediately
5 after the birth.

6 Sec. 68. Section 71-605, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 71-605 (1) The funeral director and embalmer in charge
9 of the funeral of any person dying in the State of Nebraska
10 shall cause a certificate of death to be filled out with all the
11 particulars contained in the standard form adopted and promulgated
12 by the department. Such standard form shall include a space for
13 veteran status and the period of service in the armed forces of
14 the United States and a statement of the cause of death made
15 by a person holding a valid license as a physician or physician
16 assistant who last attended the deceased. The standard form shall
17 also include the deceased's social security number. Death and fetal
18 death certificates shall be completed by the funeral directors and
19 embalmers and physicians or physician assistants for the purpose of
20 filing with the department and providing child support enforcement
21 information pursuant to section 43-3340.

22 (2) The physician or physician assistant shall have the
23 responsibility and duty to complete and sign in his or her own
24 handwriting or by electronic means pursuant to section 71-603.01,
25 within twenty-four hours from the time of death, that part of the
26 certificate of death entitled medical certificate of death. In the
27 case of a death when no person licensed as a physician or physician

1 assistant was in attendance, the funeral director and embalmer
2 shall refer the case to the county attorney who shall have the
3 responsibility and duty to complete and sign the death certificate
4 in his or her own handwriting or by electronic means pursuant to
5 section 71-603.01.

6 No cause of death shall be certified in the case of the
7 sudden and unexpected death of a child between the ages of one week
8 and three years until an autopsy is performed at county expense by
9 a qualified pathologist pursuant to section 23-1824. The parents
10 or guardian shall be notified of the results of the autopsy by
11 their physician, physician assistant, community health official,
12 or county coroner within forty-eight hours. The term sudden infant
13 death syndrome shall be entered on the death certificate as the
14 principal cause of death when the term is appropriately descriptive
15 of the pathology findings and circumstances surrounding the death
16 of a child.

17 If the circumstances show it possible that death was
18 caused by neglect, violence, or any unlawful means, the case
19 shall be referred to the county attorney for investigation and
20 certification. The county attorney shall, within twenty-four hours
21 after taking charge of the case, state the cause of death as
22 ascertained, giving as far as possible the means or instrument
23 which produced the death. All death certificates shall show clearly
24 the cause, disease, or sequence of causes ending in death. If
25 the cause of death cannot be determined within the period of time
26 stated above, the death certificate shall be filed to establish
27 the fact of death. As soon as possible thereafter, and not more

1 than six weeks later, supplemental information as to the cause,
2 disease, or sequence of causes ending in death shall be filed with
3 the department to complete the record. For all certificates stated
4 in terms that are indefinite, insufficient, or unsatisfactory for
5 classification, inquiry shall be made to the person completing
6 the certificate to secure the necessary information to correct or
7 complete the record.

8 (3) A completed death certificate shall be filed with the
9 department within five business days after the date of death. If
10 it is impossible to complete the certificate of death within five
11 business days, the funeral director and embalmer shall notify the
12 department of the reason for the delay and file the certificate as
13 soon as possible.

14 (4) Before any dead human body may be cremated, a
15 cremation permit shall first be signed by the county attorney, or
16 by his or her authorized representative as designated by the county
17 attorney in writing, of the county in which the death occurred on a
18 form prescribed and furnished by the department.

19 (5) A permit for disinterment shall be required prior to
20 disinterment of a dead human body. The permit shall be issued by
21 the department to a licensed funeral director and embalmer upon
22 proper application. The request for disinterment shall be made by
23 the next of kin of the deceased, as listed in section 38-1425,
24 or a county attorney on a form furnished by the department.
25 The application shall be signed by the funeral director and
26 embalmer who will be directly supervising the disinterment. When
27 the disinterment occurs, the funeral director and embalmer shall

1 sign the permit giving the date of disinterment and file the permit
2 with the department within ten days of the disinterment.

3 (6) When a request is made under subsection (5) of this
4 section for the disinterment of more than one dead human body, an
5 order from a court of competent jurisdiction shall be submitted to
6 the department prior to the issuance of a permit for disinterment.
7 The order shall include, but not be limited to, the number of
8 bodies to be disinterred if that number can be ascertained, the
9 method and details of transportation of the disinterred bodies,
10 the place of reinterment, and the reason for disinterment. No
11 sexton or other person in charge of a cemetery shall allow the
12 disinterment of a body without first receiving from the department
13 a disinterment permit properly completed.

14 (7) No dead human body shall be removed from the
15 state for final disposition without a transit permit issued by
16 the funeral director and embalmer having charge of the body in
17 Nebraska, except that when the death is subject to investigation,
18 the transit permit shall not be issued by the funeral director and
19 embalmer without authorization of the county attorney of the county
20 in which the death occurred. No agent of any transportation company
21 shall allow the shipment of any body without the properly completed
22 transit permit prepared in duplicate.

23 (8) The interment, disinterment, or reinterment of a
24 dead human body shall be performed under the direct supervision
25 of a licensed funeral director and embalmer, except that hospital
26 disposition may be made of the remains of a child born dead
27 pursuant to section 71-20,121.

1 (9) All transit permits issued in accordance with the
2 law of the place where the death occurred in a state other than
3 Nebraska shall be signed by the funeral director and embalmer
4 in charge of burial and forwarded to the department within five
5 business days after the interment takes place.

6 Sec. 69. Section 71-2411, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 71-2411 For purposes of the Emergency Box Drug Act:

9 (1) Authorized personnel ~~shall mean~~ means any medical
10 doctor, doctor of osteopathy, registered nurse, licensed practical
11 nurse, nurse practitioner, pharmacist, or ~~physician's~~ physician
12 assistant;

13 (2) Department ~~shall mean~~ means the Department of Health
14 and Human Services;

15 (3) Drug ~~shall mean~~ means any prescription drug or
16 device or legend drug or device defined under section 38-2841,
17 any nonprescription drug as defined under section 38-2829, any
18 controlled substance as defined under section 28-405, or any device
19 as defined under section 38-2814;

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

26 (5) ~~Institution shall mean~~ Long-term care facility means
27 an intermediate care facility, an intermediate care facility for

1 the mentally retarded, a long-term care hospital, a mental health
2 center, a nursing facility, and or a skilled nursing facility, as
3 such terms are defined in sections 71-420, 71-421, 71-423, 71-424,
4 and 71-429, the Health Care Facility Licensure Act;

5 ~~(6) Institutional pharmacy shall mean the physical~~
6 ~~portion of an institution engaged in the compounding, dispensing,~~
7 ~~and labeling of drugs which is operating pursuant to a pharmacy~~
8 ~~license issued by the department under the Health Care Facility~~
9 ~~Licensure Act;~~

10 ~~(7) (6) Multiple dose vial shall mean means~~ any bottle in
11 which more than one dose of a liquid drug is stored or contained;
12 and

13 ~~(8) Supplying pharmacist shall mean the pharmacist in~~
14 ~~charge of an institutional pharmacy or a pharmacist who provides~~
15 ~~emergency box drugs to an institution pursuant to the Emergency~~
16 ~~Box Drug Act. Supplying pharmacist shall not include any agent or~~
17 ~~employee of the supplying pharmacist who is not a pharmacist.~~

18 (7) Pharmacist means a pharmacist as defined in section
19 38-2832 who is employed by a supplying pharmacy or who has
20 contracted with a long-term care facility to provide consulting
21 services; and

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

25 Sec. 70. Section 71-2412, Revised Statutes Cumulative
26 Supplement, 2008, is amended to read:

27 71-2412 ~~(1) Each institutional pharmacy shall be directed~~

1 by a pharmacist, referred to as the pharmacist in charge as defined
2 in section 38-2833, who is licensed to engage in the practice of
3 pharmacy in this state.

4 (2) For an institution that does not have an
5 institutional pharmacy or during such times as an institutional
6 pharmacy may be unattended by a pharmacist, drugs Drugs may be
7 administered to residents of the institution a long-term care
8 facility by authorized personnel of the institution long-term care
9 facility from the contents of emergency boxes located within such
10 facility long-term care facility if such drugs and boxes meet all
11 of the following requirements:

12 (a) (1) All emergency box drugs shall be provided by and
13 all emergency boxes containing such drugs shall be sealed by a
14 supplying pharmacist pharmacy with the seal on such emergency box
15 to be of such a nature that it can be easily identified if it has
16 been broken;

17 (b) (2) Emergency boxes shall be stored in a medication
18 room or other secured area within the institution. long-term care
19 facility. Only the supplying pharmacist or authorized personnel of
20 the institution long-term care facility or the supplying pharmacy
21 shall obtain access to such room or secured area, by key or
22 combination, in order to prevent unauthorized access and to ensure
23 a proper environment for preservation of the emergency box drugs;

24 (c) (3) The exterior of each emergency box shall be
25 labeled so as to clearly indicate that it is an emergency box for
26 use in emergencies only. The label shall contain a listing of the
27 drugs contained in the box, including the name, strength, route of

1 administration, quantity, and expiration date of each drug, and the
2 name, address, and telephone number of the supplying ~~pharmacist~~
3 pharmacy;

4 ~~(d)~~ The expiration date of an emergency box shall be the
5 earliest date of expiration of any drug contained in the box;

6 ~~(e)~~ (4) All emergency boxes shall be inspected by the
7 supplying pharmacist or another a pharmacist designated by the
8 supplying ~~pharmacist~~ pharmacy at least once every thirty days or
9 after a reported usage of any drug to determine the expiration
10 date and quantity of the drugs in the box. Every inspection shall
11 be documented and the record retained by the ~~institution~~ long-term
12 care facility for a period of ~~two~~ five years;

13 ~~(f)~~ (5) An emergency box shall not contain any multiple
14 dose vials, and shall not contain more than ten drugs which are
15 controlled substances, and shall contain no more than a total of
16 fifty drugs; and

17 ~~(g)~~ (6) All drugs in emergency boxes shall be in the
18 original manufacturer's or distributor's containers or shall be
19 repackaged by the supplying ~~pharmacist~~ pharmacy and shall include
20 the manufacturer's or distributor's name, lot number, drug name,
21 strength, dosage form, NDC number, route of administration, and
22 expiration date on a typewritten label. Any drug which is
23 repackaged shall contain on the label the calculated expiration
24 date. For purposes of the Emergency Box Drug Act, calculated
25 expiration date has the same meaning as in subdivision (7)(b) of
26 section 38-2884.

27 Sec. 71. Section 71-2413, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-2413 (1) The supplying ~~pharmacist~~ pharmacy and the
3 medical director and quality assurance committee of the ~~institution~~
4 long-term care facility shall jointly determine the drugs, by
5 identity and quantity, to be included in the emergency boxes.
6 ~~Such drugs shall then be approved in advance of placement in~~
7 ~~emergency boxes by the Board of Pharmacy,~~ unless such drugs are
8 included on a general list of drugs previously approved by the
9 board for use in emergency boxes. The board may adopt a general
10 list of drugs to be included in emergency boxes. The supplying
11 ~~pharmacist~~ pharmacy shall maintain a list of emergency box drugs
12 in the pharmacy of the supplying pharmacist which is identical
13 to the list on the exterior of the emergency box and shall make
14 such list available to the department upon request. The supplying
15 ~~pharmacist~~ pharmacy shall obtain a receipt upon delivery of the
16 emergency box to the ~~institution~~ long-term care facility signed by
17 the director of nursing of the ~~institution~~ long-term care facility
18 which acknowledges that the drugs initially placed in the emergency
19 box are identical to the initial list on the exterior of the
20 emergency box. The receipt shall be retained by the supplying
21 ~~pharmacist~~ pharmacy for a period of ~~two~~ five years.

22 (2) Except for the removal of expired drugs as provided
23 in subsection (4) of this section, drugs shall be removed from
24 emergency boxes only pursuant to a prescription. Whenever access
25 to the emergency box occurs, the prescription and proof of use
26 shall be provided to the supplying ~~pharmacist~~ pharmacy and shall be
27 recorded on the resident's medical record by authorized personnel

1 of the ~~institution~~ long-term care facility. Removal of any drug
2 from an emergency box by authorized personnel of the ~~institution~~
3 long-term care facility shall be recorded on a form showing the
4 name of the resident who received the drug, his or her room number,
5 the name of the drug, the strength of the drug, the quantity used,
6 the dose administered, the route of administration, the date the
7 drug was used, the time of usage, the disposal of waste, if any,
8 and the signature ~~of the~~ or signatures of authorized personnel. The
9 form shall be maintained at the ~~institution~~ long-term care facility
10 for a period of ~~twenty-four months~~ five years from the date of
11 removal with a copy of the form to be provided to the supplying
12 ~~pharmacist~~ pharmacy.

13 (3) Whenever an emergency box is opened, the supplying
14 ~~pharmacist~~ pharmacy shall be notified by the charge nurse or the
15 director of nursing of the ~~institution~~ long-term care facility
16 within twenty-four hours and ~~the supplying pharmacist or another~~
17 a pharmacist designated by the supplying ~~pharmacist~~ pharmacy shall
18 restock and refill the box, reseal the box, and update the drug
19 listing on the exterior of the box. ~~within seventy-two hours.~~

20 (4) Upon the expiration of any drug in the emergency
21 box, the supplying ~~pharmacist or another pharmacist~~ designated
22 ~~by the supplying pharmacist~~ pharmacy shall replace the expired
23 drug, reseal the box, and update the drug listing on the exterior
24 of the box. ~~The expired drug shall be immediately destroyed~~
25 ~~within the institution by a pharmacist, and such destruction~~
26 ~~shall be witnessed and documented by such pharmacist. If the~~
27 ~~expired drug is a controlled substance listed in Schedule II,~~

1 ~~III, IV, or V of section 28-405, it shall be destroyed pursuant~~
2 ~~to subdivision (3)(f)(iv) of section 28-414. Records pertaining~~
3 ~~to the documentation of expired drugs which are destroyed shall~~
4 ~~be maintained at the institution for a period of five years~~
5 ~~from the date of destruction with a copy of such records to be~~
6 ~~provided to the supplying pharmacist. Emergency box drugs shall~~
7 ~~be considered inventory of the supplying pharmacy of the supplying~~
8 ~~pharmacist until such time as they are removed for administration,~~
9 ~~or destruction.~~

10 (5) Authorized personnel of the ~~institution~~ long-term
11 care facility shall examine the emergency boxes once every
12 twenty-four hours and shall immediately notify the supplying
13 ~~pharmacist~~ pharmacy upon discovering evidence of tampering with
14 any emergency box. Proof of examination by authorized personnel
15 of the ~~institution~~ long-term care facility shall be recorded and
16 maintained at the ~~institution~~ long-term care facility for a period
17 of ~~twenty-four months~~ five years from the date of examination.

18 (6) The supplying ~~pharmacist~~ pharmacy and the medical
19 director and quality assurance committee of the ~~institution~~
20 long-term care facility shall jointly establish written procedures
21 for the safe and efficient distribution of emergency box drugs.

22 Sec. 72. Section 71-2414, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-2414 The department shall have (1) the authority to
25 inspect any emergency box and (2) access to the records of the
26 supplying ~~pharmacist~~ and the ~~institution~~ pharmacy and the long-term
27 care facility for inspection. Refusal to allow the department to

1 inspect an emergency box or to have access to records shall be
2 grounds for a disciplinary action against the supplying ~~pharmacist~~
3 ~~or the license of the institution.~~ pharmacy or the license of the
4 long-term care facility.

5 Sec. 73. Section 71-2416, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-2416 (1) The department may limit, suspend, or revoke
8 the authority of a supplying ~~pharmacist~~ pharmacy to maintain
9 emergency boxes in an ~~institution~~ a long-term care facility for any
10 violation of the Emergency Box Drug Act. The department may limit,
11 suspend, or revoke the authority of an ~~institution~~ a long-term care
12 facility to maintain an emergency box for any violation of the
13 act. The taking of such action against the supplying ~~pharmacist or~~
14 ~~institution~~ pharmacy or the long-term care facility or both shall
15 not prohibit the department from taking other disciplinary actions
16 against the supplying ~~pharmacist or the institution.~~ pharmacy or
17 the long-term care facility.

18 (2) If the department determines to limit, suspend, or
19 revoke the authority of a supplying ~~pharmacist~~ pharmacy to maintain
20 emergency boxes in an ~~institution~~ a long-term care facility or
21 to limit, suspend, or revoke the authority of an ~~institution~~ a
22 long-term care facility to maintain an emergency box, it shall
23 send to the supplying ~~pharmacist or institution~~ pharmacy or the
24 long-term care facility a notice of such determination. The notice
25 may be served by any method specified in section 25-505.01, or
26 the department may permit substitute or constructive service as
27 provided in section 25-517.02 when service cannot be made with

1 reasonable diligence by any of the methods specified in section
2 25-505.01. The limitation, suspension, or revocation shall become
3 final thirty days after receipt of the notice unless the supplying
4 ~~pharmacist or institution,~~ pharmacy or the long-term care facility,
5 within such thirty-day period, requests a hearing in writing. The
6 supplying ~~pharmacist or institution~~ pharmacy or the long-term care
7 facility shall be given a fair hearing before the department and
8 may present such evidence as may be proper. On the basis of such
9 evidence, the determination involved shall be affirmed, set aside,
10 or modified, and a copy of such decision setting forth the findings
11 of facts and the particular reasons on which it is based shall be
12 sent to the supplying ~~pharmacist or institution,~~ pharmacy or the
13 long-term care facility. The parties may appeal the final decision
14 in accordance with the Administrative Procedure Act. Witnesses may
15 be subpoenaed by either party and shall be allowed a fee at the
16 statutory rate.

17 (3) The procedure governing hearings authorized by the
18 Emergency Box Drug Act shall be in accordance with rules and
19 regulations adopted and promulgated by the department.

20 (4) The supplying ~~pharmacist or institution~~ pharmacy or
21 the long-term care facility shall not maintain an emergency box
22 after ~~his, her,~~ ~~or~~ its authority to maintain such box has been
23 revoked or during the time such authority has been suspended. If
24 the authority is suspended, the suspension shall be for a definite
25 period of time. Such authority shall be automatically reinstated on
26 the expiration of such period. If such authority has been revoked,
27 such revocation shall be permanent, except that at any time after

1 the expiration of two years, application for reinstatement of
2 authority may be made to the department. ~~Any such application for~~
3 ~~reinstatement by a supplying pharmacist may not be received by~~
4 ~~the department unless accompanied by a written recommendation of~~
5 ~~reinstatement by the Board of Pharmacy.~~

6 (5) Any person who commits any of the acts prohibited
7 by the ~~act~~ Emergency Box Drug Act shall be guilty of a Class II
8 misdemeanor. The department may maintain an action in the name
9 of the state against any person for maintaining an emergency box
10 in violation of the act. Each day a violation continues shall
11 constitute a separate violation.

12 Sec. 74. Section 71-2417, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-2417 Any emergency box containing a controlled
15 substance listed in section 28-405 and maintained at ~~an institution~~
16 a long-term care facility shall be exempt from the provisions of
17 subdivision (3)(g) of section 28-414.

18 Sec. 75. Section 71-2445, Revised Statutes Cumulative
19 Supplement, 2008, is amended to read:

20 71-2445 For purposes of the Automated Medication Systems
21 Act:

22 (1) Automated medication distribution machine means a
23 type of automated medication system that stores medication to be
24 administered to a patient by a person credentialed ~~before December~~
25 ~~1, 2008,~~ under the Uniform Licensing Law and ~~on or after December~~
26 ~~1, 2008,~~ under the Uniform Credentialing Act;

27 (2) Automated medication system means a mechanical system

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

9 (3) Chart order means an order for a drug or device
10 issued by a practitioner for a patient who is in the hospital
11 where the chart is stored or for a patient receiving detoxification
12 treatment or maintenance treatment pursuant to section 28-412.
13 Chart order does not include a prescription;

14 (4) Hospital has the definition found in section 71-419;

15 (5) Long-term care facility means an intermediate care
16 facility, an intermediate care facility for the mentally retarded,
17 a long-term care hospital, a mental health center, a nursing
18 facility, or a skilled nursing facility, as such terms are defined
19 in the Health Care Facility Licensure Act;

20 ~~(5)~~ (6) Medical order means a prescription, a chart
21 order, or an order for pharmaceutical care issued by a
22 practitioner;

23 ~~(6)~~ (7) Pharmacist means any person who is licensed by
24 the State of Nebraska to practice pharmacy;

25 ~~(7)~~ (8) Pharmacist care means the provision by a
26 pharmacist of medication therapy management, with or without the
27 dispensing of drugs or devices, intended to achieve outcomes

1 related to the cure or prevention of a disease, elimination or
2 reduction of a patient's symptoms, or arresting or slowing of a
3 disease process;

4 ~~(8)~~ (9) Pharmacist remote order entry means entering an
5 order into a computer system or drug utilization review by a
6 pharmacist licensed to practice pharmacy in the State of Nebraska
7 and located within the United States, pursuant to medical orders in
8 a hospital, long-term care facility, or pharmacy licensed under the
9 Health Care Facility Licensure Act;

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

21 ~~(10)~~ (11) Practitioner means a certified registered nurse
22 anesthetist, a certified nurse midwife, a dentist, an optometrist,
23 a nurse practitioner, a physician assistant, a physician, a
24 podiatrist, or a veterinarian;

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

1 order;

2 ~~(11)~~ (13) Prescription medication distribution machine
3 means a type of automated medication system that packages, labels,
4 or counts medication in preparation for dispensing of medications
5 by a pharmacist pursuant to a prescription; and

6 ~~(12)~~ (14) Telepharmacy means the provision of pharmacist
7 care, by a pharmacist located within the United States, using
8 telecommunications, remote order entry, or other automations and
9 technologies to deliver care to patients or their agents who are
10 located at sites other than where the pharmacist is located.

11 Sec. 76. Section 71-2447, Revised Statutes Cumulative
12 Supplement, 2008, is amended to read:

13 71-2447 Any hospital, long-term care facility, or
14 pharmacy that uses an automated medication system shall develop,
15 maintain, and comply with policies and procedures developed in
16 consultation with the pharmacist responsible for pharmacist care
17 for that hospital, long-term care facility, or pharmacy. At a
18 minimum, the policies and procedures shall address the following:

19 (1) The description and location within the hospital,
20 long-term care facility, or pharmacy of the automated medication
21 system or equipment being used;

22 (2) The name of the individual or individuals responsible
23 for implementation of and compliance with the policies and
24 procedures;

25 (3) Medication access and information access procedures;

26 (4) Security of inventory and confidentiality of records
27 in compliance with state and federal laws, rules, and regulations;

1 (5) A description of how and by whom the automated
2 medication system is being utilized, including processes for
3 filling, verifying, dispensing, and distributing medications;

4 (6) Staff education and training;

5 (7) Quality assurance and quality improvement programs
6 and processes;

7 (8) Inoperability or emergency downtime procedures;

8 (9) Periodic system maintenance; and

9 (10) Medication security and controls.

10 Sec. 77. Section 71-2449, Revised Statutes Cumulative
11 Supplement, 2008, is amended to read:

12 71-2449 (1) An automated medication distribution machine:

13 (a) Is subject to the requirements of section 71-2447;

14 and

15 (b) May be operated in a hospital or long-term care
16 facility for medication administration pursuant to a chart order or
17 prescription by a licensed health care professional.

18 (2) Drugs placed in an automated medication distribution
19 machine shall be in the manufacturer's original packaging or in
20 containers repackaged in compliance with state and federal laws,
21 rules, and regulations relating to repackaging, labeling, and
22 record keeping.

23 (3) The inventory which is transferred to an automated
24 medication distribution machine in a hospital or long-term care
25 facility shall be excluded from the percent of total prescription
26 drug sales revenue described in section 71-7454.

27 Sec. 78. Section 71-2450, Revised Statutes Cumulative

1 Supplement, 2008, is amended to read:

2 71-2450 A pharmacist providing pharmacist remote order
3 entry shall:

4 (1) Be located within the United States;

5 (2) Maintain adequate security and privacy in accordance
6 with state and federal laws, rules, and regulations;

7 (3) Be linked to one or more hospitals, long-term care
8 facilities, or pharmacies for which services are provided via
9 computer link, video link, audio link, or facsimile transmission;

10 (4) Have access to each patient's medical information
11 necessary to perform via computer link, video link, or facsimile
12 transmission a prospective drug utilization review as specified
13 ~~before December 1, 2008, in section 71-1,147.35 and on or after~~
14 ~~December 1, 2008,~~ in section 38-2869; and

15 (5) Be employed by or have a contractual agreement to
16 provide such services with the hospital, long-term care facility,
17 or pharmacy where the patient is located.

18 Sec. 79. Section 71-5403, Revised Statutes Cumulative
19 Supplement, 2008, is amended to read:

20 71-5403 (1) A pharmacist may drug product select except
21 when:

22 (a) A practitioner designates that drug product selection
23 is not permitted by specifying on ~~the face of~~ the prescription
24 or by telephonic, facsimile, or electronic transmission that there
25 shall be no drug product selection. For written prescriptions, the
26 practitioner shall specify in his or her own handwriting on the
27 prescription the phrase "no drug product selection", "dispense as

1 written", "brand medically necessary", or "no generic substitution"
2 or the notation "N.D.P.S.", "D.A.W.", or "B.M.N." or words or
3 notations of similar import to indicate that drug product selection
4 is not permitted. The pharmacist shall note "N.D.P.S.", "D.A.W.",
5 "B.M.N.", "no drug product selection", "dispense as written",
6 "brand medically necessary", "no generic substitution", or words
7 or notations of similar import on the face of the prescription to
8 indicate that drug product selection is not permitted if such is
9 communicated orally by the prescribing practitioner; or

10 (b) A patient or designated representative or caregiver
11 of such patient instructs otherwise.

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

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

17 (b) The drug product has been labeled with an expiration
18 date;

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

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

25 Sec. 80. Section 71-5829.03, Revised Statutes Cumulative
26 Supplement, 2008, is amended to read:

27 71-5829.03 ~~Ne~~ Except as provided in section 71-5830.01,

1 no person, including persons acting for or on behalf of a health
2 care facility, shall engage in any of the following activities
3 without having first applied for and received the necessary
4 certificate of need:

5 (1) The initial establishment of long-term care beds or
6 rehabilitation beds except as permitted under subdivisions ~~(6)~~ (4)
7 and ~~(7)~~ (5) of this section;

8 (2) An increase in the long-term care beds of a health
9 care facility by more than ten long-term care beds or more than ten
10 percent of the total long-term care bed capacity of such facility,
11 whichever is less, over a two-year period;

12 (3) An increase in the rehabilitation beds of a health
13 care facility by more than ten rehabilitation beds or more than ten
14 percent of the total rehabilitation bed capacity of such facility,
15 whichever is less, over a two-year period;

16 ~~(4) A relocation of long-term care beds from a health~~
17 ~~care facility at one physical facility or contiguous site to~~
18 ~~another noncontiguous site within the same health planning region~~
19 ~~if the relocation will cause an aggregate increase in long-term~~
20 ~~care beds between those locations of more than ten beds or more~~
21 ~~than ten percent of the total bed capacity, whichever is less, over~~
22 ~~a two-year period;~~

23 ~~(5) Any relocation of long-term care beds from a health~~
24 ~~care facility located in one health planning region to a health~~
25 ~~care facility in a different health planning region;~~

26 ~~(6)~~ (4) Any initial establishment of long-term care beds
27 through conversion by a hospital of any type of hospital beds to

1 long-term care beds if the total beds converted by the hospital
2 are more than ten beds or more than ten percent of the total
3 bed capacity of such hospital, whichever is less, over a two-year
4 period;

5 ~~(7)~~ (5) Any initial establishment of rehabilitation beds
6 through conversion by a hospital of any type of hospital beds to
7 rehabilitation beds if the total beds converted by the hospital
8 are more than ten beds or more than ten percent of the total
9 bed capacity of such hospital, whichever is less, over a two-year
10 period; or

11 ~~(8)~~ (6) Any relocation of rehabilitation beds in Nebraska
12 from one health care facility to another health care facility.

13 Sec. 81. Section 71-5829.04, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-5829.04 (1) All long-term care beds which require a
16 certificate of need under section 71-5829.03 are subject to a
17 moratorium unless one of the following exceptions applies:

18 (a) An exception to the moratorium may be granted if the
19 department establishes that the needs of individuals whose medical
20 and nursing needs are complex or intensive and are above the
21 level of capabilities of staff and above the services ordinarily
22 provided in a long-term care bed are not currently being met by the
23 long-term care beds licensed in the health planning region; or

24 (b) If the average occupancy for all licensed long-term
25 care beds located in a twenty-five mile radius of the proposed
26 site have exceeded ninety percent occupancy during the most recent
27 three consecutive calendar quarters as reported at the time of

1 the application filing and there is a long-term care bed need as
2 determined ~~by the formula in~~ under this section, the department
3 may grant an exception to the moratorium and issue a certificate
4 of need. If the department determines average occupancy for all
5 licensed long-term care beds located in a twenty-five mile radius
6 of the proposed site has not exceeded ninety percent occupancy
7 during the most recent three consecutive calendar quarters as
8 reported at the time of the application filing, the department
9 shall deny the application.

10 (2) The department shall review applications which
11 require a certificate of need under section 71-5829.03 and
12 determine if there is a need for additional long-term care beds
13 ~~based on the following formula:~~ as provided in this section.
14 No such application shall be approved if the current supply of
15 licensed long-term care beds in the health planning region of the
16 proposed site exceeds the long-term care bed need for that health
17 planning region. For purposes of this section:

18 (a) Long-term care bed need is equal to the population
19 of the health planning region, multiplied by the utilization rate
20 goal, of long-term care beds within the health planning region, and
21 the result divided by the minimum occupancy rate of long-term care
22 beds within the health planning region; goal. ~~No such application~~
23 ~~shall be approved if the current supply of licensed long-term care~~
24 ~~beds in the health planning region of the proposed site exceeds the~~
25 ~~long-term care bed need for that health planning region, determined~~
26 ~~by aggregating the long-term care bed need established for each sex~~
27 ~~and age group using the formula.~~

1 ~~In reaching this determination:~~

2 ~~(a) The population includes the total population of the~~
3 ~~health planning region of the proposed site, disaggregated into~~
4 ~~the following age categories: Birth through sixty-four years of~~
5 ~~age, sixty-five years of age through seventy-four years of age,~~
6 ~~seventy-five years of age through eighty-four years of age, and~~
7 ~~eighty-five years of age and over. Each listed age category shall~~
8 ~~be further categorized by gender. The most recent population~~
9 ~~projections available from the department for the year which is~~
10 ~~closest to the fifth year following the date of the application~~
11 ~~shall be used to determine the population used in the formula;~~

12 (b) Population is the most recent projection of
13 population for the health planning region for the year which is
14 closest to the fifth year immediately following the date of the
15 application. The applicant shall provide such projection as part of
16 the application using data from the University of Nebraska-Lincoln
17 Bureau of Business Research or other source approved by the
18 department;

19 ~~(b) (c) The utilization rate goal is the number of people~~
20 ~~using long-term care beds per one thousand persons living in the~~
21 ~~health planning region in which the proposed project is located~~
22 ~~divided by the population of the health planning region; - Such~~
23 ~~utilization rate shall be computed for each of the population~~
24 ~~categories listed in subdivision (2)(a) of this section and based~~
25 ~~on the most current utilization data available from the department;~~
26 ~~and~~

27 ~~(e) (d) The minimum occupancy rate goal is ninety-five~~

1 percent for health planning regions which are part of or contain
2 a Metropolitan Statistical Area as defined by the United States
3 Bureau of the Census. For all other health planning regions in the
4 state, the minimum occupancy rate goal is ninety percent.

5 (3) To facilitate the review and determination required
6 by this section, each health care facility with long-term care beds
7 shall report on a quarterly basis to the department the number
8 of residents at such facility on the last day of the immediately
9 preceding quarter on a form provided by the department. Such report
10 shall be provided to the department no later than ninety days after
11 the last day of the immediately preceding quarter. The department
12 shall provide the occupancy data collected from such reports upon
13 request. Any facility failing to timely report such information
14 shall be ineligible for any exception to the requirement for a
15 certificate of need under section 71-5830.01 and any exception to
16 the moratorium imposed under this section and may not receive,
17 transfer, or relocate long-term care beds.

18 Sec. 82. Section 71-5830.01, Revised Statutes Cumulative
19 Supplement, 2008, is amended to read:

20 71-5830.01 Notwithstanding any other provisions of the
21 Nebraska Health Care Certificate of Need Act, a certificate of need
22 is not required for:

23 (1) A change in classification between an intermediate
24 care facility, a nursing facility, or a skilled nursing facility;

25 (2) A project of a county in which is located a city of
26 the metropolitan class for which a bond issue has been approved by
27 the electorate of such county on or after January 1, 1994; and

1 (3) A project of a federally recognized Indian tribe
2 to be located on tribal lands within the exterior boundaries of
3 the State of Nebraska where (a) a determination has been made by
4 the tribe's governing body that the cultural needs of the tribe's
5 members cannot be adequately met by existing facilities if such
6 project has been approved by the tribe's governing body and (b)
7 the tribe has a self-determination agreement in place with the
8 Indian Health Service of the United States Department of Health and
9 Human Services so that payment for enrolled members of a federally
10 recognized Indian tribe who are served at such facility will be
11 made with one hundred percent federal reimbursement; and-

12 (4) A transfer or relocation of long-term care beds from
13 one facility to another entity in the same health planning region
14 or any other health planning region. The receiving entity shall
15 obtain a license for the transferred or relocated beds within
16 two years after the transfer or relocation. The department shall
17 grant an extension of such time if the receiving entity is making
18 progress toward the licensure of such beds.

19 Sec. 83. Section 71-5865, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-5865 In an appeal of a decision to deny a certificate
22 of need, the person requesting the appeal shall bear the burden of
23 proving that the project meets the applicable criteria established
24 in sections ~~71-5829.02~~ 71-5829.03 to 71-5829.06.

25 Sec. 84. Section 71-8205, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-8205 Advanced level trauma center means a trauma

1 center which, in addition to providing all of the services provided
2 by basic level and general level trauma centers, also provides
3 definitive care for complex and severe trauma, an emergency
4 trauma team available within fifteen minutes, twenty-four hours
5 per day, inhouse operating room personnel who initiate surgery,
6 a neurosurgeon available who provides neurological assessment
7 and stabilization, a broad range of specialists available ~~within~~
8 ~~fifteen minutes or less~~ for consultation or care, comprehensive
9 diagnostic capabilities and support equipment, and appropriate
10 equipment for pediatric trauma patients in the emergency
11 department, intensive care unit, and operating room.

12 Sec. 85. Section 71-8207, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-8207 Basic level trauma center means a trauma center
15 which has a trauma-trained physician, advanced practice registered
16 nurse, or physician assistant available within ~~fifteen~~ thirty
17 minutes to provide stabilization and transfer to a higher level
18 trauma center when appropriate, which has basic equipment for
19 resuscitation and stabilization, which maintains appropriate
20 equipment for pediatric trauma patients for resuscitation and
21 stabilization, and which may provide limited surgical intervention
22 based upon the expertise of available onsite staff.

23 Sec. 86. Section 71-8208, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-8208 Communications system means a ~~radio and landline~~
26 any network which provides rapid public access, coordinated central
27 dispatching of services, and coordination of personnel, equipment,

1 and facilities in the trauma system.

2 Sec. 87. Section 71-8210, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-8210 Comprehensive level trauma center means a trauma
5 center which (1) provides the highest level of definitive,
6 comprehensive care for patients with complex traumatic injury, (2)
7 provides an emergency trauma team available within fifteen minutes,
8 twenty-four hours per day, including inhouse, immediately available
9 personnel who can initiate surgery and appropriate equipment for
10 pediatric trauma patients in the emergency department, intensive
11 care unit, and operating room, and ~~(2)~~ (3) is responsible for
12 research, education, and outreach programs for trauma.

13 Sec. 88. Section 71-8216, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-8216 Emergency medical services and trauma plan
16 means the statewide plan that identifies statewide emergency
17 medical service and trauma care objectives and priorities and
18 identifies equipment, facilities, personnel, training, and other
19 needs required to create and maintain the statewide trauma system
20 established in section 71-8239. Emergency medical services and
21 trauma plan also includes a plan of implementation that identifies
22 the state and regional activities that will create, operate,
23 maintain, and enhance the system. The plan shall be formulated
24 by incorporating the regional trauma plans required under the
25 Statewide Trauma System Act. The plan shall be updated every ~~two~~
26 five years.

27 Sec. 89. Section 71-8218, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-8218 General level trauma center means a trauma
3 center that (1) provides initial evaluation and stabilization,
4 including surgical stabilization if appropriate, and general
5 medical and surgical inpatient services to patients who can be
6 maintained in a stable or improving condition without specialized
7 care, (2) prepares for transfer and transfers patients meeting
8 predetermined criteria pursuant to the rules and regulations
9 adopted under the Statewide Trauma System Act to higher level
10 trauma centers, (3) is physician directed within a formally
11 organized trauma team, (4) provides trauma-trained physicians and
12 nurses to the emergency department within ~~fifteen~~ thirty minutes of
13 notification, (5) has personnel available who can initiate surgery,
14 (6) has appropriate diagnostic capabilities and equipment, and (7)
15 maintains appropriate equipment for pediatric trauma patients in
16 the emergency department, intensive care unit, and operating room.

17 Sec. 90. Section 71-8222, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-8222 On-line ~~medical controller~~ physician or qualified
20 physician surrogate means a physician or a qualified physician
21 surrogate, preferably within the region, who is ~~in contact with~~
22 ~~the on-scene medical director~~ providing medical direction to the
23 emergency medical service providing life support and stabilization
24 and includes interfacility or intrafacility transfer and bypass to
25 a higher level trauma center.

26 Sec. 91. Section 71-8230, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 71-8230 Specialty level burn or pediatric trauma center
2 means a trauma center that (1) provides specialized care in the
3 areas of burns or pediatrics, (2) is designated or verified by its
4 professional association governing body, (3) provides continuous
5 accessibility regardless of day, season, or patient's ability to
6 pay, and (4) has entry access from each of the designation levels
7 as its on-line ~~medical controller~~ physician or qualified physician
8 surrogate deems appropriate.

9 Sec. 92. Section 71-8232, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-8232 Trauma means a ~~major~~ single-system or multisystem
12 injury requiring immediate medical or surgical intervention or
13 treatment to prevent death or permanent disability. ~~For purposes of~~
14 ~~this section,~~ ~~major~~ has the definition of the American Society for
15 ~~Testing and Materials.~~

16 Sec. 93. Section 71-8234, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-8234 Trauma team means a team of physicians, nurses,
19 medical technicians, and ~~specialists~~ other personnel compiled to
20 create a seamless response to a ~~medical emergency~~ an acutely
21 injured patient in a hospital emergency room department.

22 Sec. 94. Section 71-8235, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-8235 Trauma system means an organized approach
25 to providing care to trauma patients that provides personnel,
26 facilities, and equipment for effective and coordinated trauma
27 care. The trauma system shall identify facilities with specific

1 capabilities to provide care and provide that trauma patients be
2 treated at a designated trauma center appropriate to the patient's
3 level of injury. Trauma system includes prevention, prehospital or
4 out-of-hospital care, hospital care, and rehabilitative services
5 regardless of insurance carrier or ability to pay. ~~The trauma~~
6 ~~system shall not restrict transfers for rehabilitative services.~~

7 Sec. 95. Section 71-8237, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-8237 The State Trauma Advisory Board shall:

10 (1) Advise the department regarding trauma care needs
11 throughout the state;

12 (2) Advise the Board of Emergency Medical Services
13 regarding trauma care to be provided throughout the state by
14 out-of-hospital and emergency medical services;

15 (3) Review the regional trauma plans and recommend
16 changes to the department before the department adopts the plans;

17 (4) Review proposed departmental rules and regulations
18 for trauma care;

19 (5) Recommend modifications in rules regarding trauma
20 care; and

21 (6) Draft a ~~two-year~~ five-year statewide prevention plan
22 that each trauma care region shall implement.

23 Sec. 96. Section 71-8239, Revised Statutes Cumulative
24 Supplement, 2008, is amended to read:

25 71-8239 (1) The department, in consultation with and
26 having solicited the advice of the State Trauma Advisory Board,
27 shall establish and maintain the statewide trauma system.

1 (2) The department, with the advice of the board, shall
2 adopt and promulgate rules and regulations to carry out the
3 Statewide Trauma System Act.

4 (3) The Director of Public Health or his or her designee
5 shall appoint the state trauma medical director and the regional
6 medical directors.

7 Sec. 97. Section 71-8240, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-8240 The department shall establish and maintain the
10 following on a statewide basis:

11 (1) ~~By February 1998, trauma~~ Trauma system objectives and
12 priorities;

13 (2) ~~By March 1998, minimum~~ Minimum trauma standards
14 for facilities, equipment, and personnel for advanced, basic,
15 comprehensive, and general level trauma centers and specialty level
16 burn or pediatric trauma centers;

17 (3) ~~By March 1998, minimum~~ Minimum standards for
18 facilities, equipment, and personnel for advanced, basic, and
19 general level rehabilitation centers;

20 (4) ~~By April 1998, minimum~~ Minimum trauma standards for
21 the development of facility patient care protocols;

22 (5) ~~By April 1998, trauma~~ Trauma care regions as provided
23 for in section 71-8250;

24 (6) ~~By September 1998, recommendations~~ Recommendations
25 for an effective trauma transportation system;

26 (7) ~~By September 1998, the~~ The minimum number of
27 hospitals and health care facilities in the state and within

1 each trauma care region that may provide designated trauma care
2 services based upon approved regional trauma plans;

3 (8) ~~By September 1998, the~~ The minimum number of
4 prehospital or out-of-hospital care providers in the state and
5 within each trauma care region that may provide trauma care
6 services based upon approved regional trauma plans;

7 (9) ~~By September 1998, a~~ A format for submission of the
8 regional trauma plans to the department;

9 (10) ~~By December 1998, a~~ A program for emergency medical
10 services and trauma care research and development;

11 (11) ~~By December 1998, review~~ Review and approve regional
12 trauma plans;

13 (12) ~~By January 2000, the~~ The initial designation of
14 hospitals and health care facilities to provide designated trauma
15 care services in accordance with needs identified in the approved
16 regional trauma plan; and

17 (13) ~~By April 2000, the~~ The trauma implementation plan
18 incorporating the regional trauma plans, and

19 ~~(14) On or before January 1, 2002, all emergency medical~~
20 ~~services when responding to a trauma call shall have access to an~~
21 ~~on-line medical controller, which could be the physician medical~~
22 ~~director, available twenty-four hours a day, seven days a week.~~

23 Sec. 98. Section 71-8242, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-8242 ~~By December 1998, the~~ The department shall:

26 (1) Purchase and maintain the statewide trauma registry
27 pursuant to section 71-8248 to assess the effectiveness of trauma

1 delivery and modify standards and other requirements of the
2 statewide trauma system, to improve the provision of emergency
3 medical services and trauma care;

4 (2) Develop patient outcome measures to assess the
5 effectiveness of trauma care in the system;

6 (3) Develop standards for regional trauma care quality
7 assurance programs; and

8 (4) ~~Begin coordination and development of~~ Coordinate and
9 develop trauma prevention and education programs.

10 The department shall administer funding allocated to the
11 department for the purpose of creating, maintaining, or enhancing
12 the statewide trauma system.

13 Sec. 99. Section 71-8243, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-8243 Designated trauma centers and rehabilitation
16 centers that receive trauma patients shall be categorized according
17 to designation under the Statewide Trauma System Act. All levels
18 of centers shall ~~have agreements for transfer with higher-level~~
19 ~~and lower-level centers,~~ follow federal regulation guidelines and
20 established referral patterns, as appropriate, to facilitate a
21 seamless patient-flow system.

22 Sec. 100. Section 71-8244, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-8244 Any hospital, facility, rehabilitation center,
25 or specialty level burn or pediatric trauma center that desires
26 to be a designated center shall request designation from the
27 department whereby each agrees to maintain a level of commitment

1 and resources sufficient to meet responsibilities and standards
2 required by the statewide trauma system. ~~The and to have an~~
3 ~~on-line medical controller available to out-of-hospital emergency~~
4 ~~medical services twenty-four hours a day, seven days a week.~~
5 ~~By December 1998,~~ the department shall determine by rule and
6 regulation the manner and form of such requests. Upon receiving
7 a request, the department shall review the request to determine
8 whether there is compliance with standards for the trauma care
9 level for which designation is desired or whether the appropriate
10 governing body verification documentation has been submitted. Any
11 hospital, facility, rehabilitation center, or specialty level burn
12 or pediatric trauma center which meets such standards submits such
13 verification documentation shall be designated by the department
14 and shall be included in the trauma system or plan established
15 under the Statewide Trauma System Act. Any medical facility
16 applying for designation may appeal its designation. The appeal
17 shall be in accordance with the Administrative Procedure Act.

18 Designation is valid for a period of four years and is
19 renewable upon receipt of a request from the medical facility for
20 renewal prior to expiration. Any medical facility that is currently
21 verified by ~~the American College of Surgeons~~ its governing body
22 shall be designated at the corresponding level of designation for
23 the same time period in Nebraska without the necessity of an onsite
24 review by the department. Regional trauma advisory boards shall
25 be notified promptly of designated medical facilities in their
26 region so they may incorporate them into the regional plan. The
27 department may revoke or suspend a designation if it determines

1 that the medical facility is substantially out of compliance with
2 the standards and has refused or been unable to comply after
3 a reasonable period of time has elapsed. The department shall
4 promptly notify the regional trauma advisory board of designation
5 suspensions and revocations. Any rehabilitation or trauma center
6 the designation of which has been revoked or suspended may request
7 a hearing to review the action of the department.

8 Sec. 101. Section 71-8245, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-8245 As part of the process to designate and renew the
11 designation of hospitals and health care facilities as advanced,
12 basic, comprehensive, or general level trauma centers, ~~advanced,~~
13 ~~basic, or general level rehabilitation centers, or specialty level~~
14 ~~burn or pediatric trauma centers,~~ the department may contract
15 for onsite reviews of such hospitals and health care facilities
16 to determine compliance with required standards. As part of the
17 process to designate a health care facility as a basic or general
18 rehabilitation center or specialty level burn or pediatric trauma
19 center, the applicant shall submit to the department documentation
20 of current verification from its governing body in its specialty
21 area. Members of onsite review teams and staff included in onsite
22 visits shall not divulge and cannot be subpoenaed to divulge
23 information obtained or reports written pursuant to this section
24 in any civil action, except pursuant to a court order which
25 provides for the protection of sensitive information of interested
26 parties, including the department: (1) In actions arising out of
27 the designation of a hospital or health care facility pursuant to

1 section 71-8244; (2) in actions arising out of the revocation or
2 suspension of a designation under such section; or (3) in actions
3 arising out of the restriction or revocation of the clinical
4 or staff privileges of a health care provider, subject to any
5 further restrictions on disclosure that may apply. Information
6 that identifies an individual patient shall not be publicly
7 disclosed without the patient's consent. When a medical facility
8 requests designation for more than one service, the department may
9 coordinate the joint consideration of such requests. Composition
10 and qualification of the designation team shall be set forth in
11 rules and regulations adopted under the Statewide Trauma System
12 Act. Reports prepared pursuant to this section shall not be
13 considered public records.

14 The department may establish fees to defray the costs
15 of carrying out onsite reviews required by this section, but such
16 fees shall not be assessed to health care facilities designated as
17 basic or general level trauma centers or basic level rehabilitation
18 centers.

19 This section does not restrict the authority of a
20 hospital or a health care provider to provide services which
21 it has been authorized to provide by state law.

22 Sec. 102. Section 71-8246, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-8246 ~~By May 1998, the department shall begin the~~
25 ~~development of~~ The department shall develop the regional trauma
26 system. The department shall:

27 (1) Assess and analyze regional trauma care needs;

1 (2) Identify personnel, agencies, facilities, equipment,
2 training, and education needed to meet regional needs;

3 (3) Identify specific activities necessary to meet
4 statewide standards and patient care outcomes and develop a plan of
5 implementation for regional compliance;

6 (4) ~~Establish~~ Promote agreements with providers outside
7 the region to facilitate patient transfer;

8 (5) Establish a regional budget;

9 (6) Establish the minimum number and level of facilities
10 to be designated which are consistent with state standards and
11 based upon availability of resources and the distribution of trauma
12 within the region; and

13 (7) Include other specific elements defined by the
14 department.

15 Sec. 103. Section 71-8247, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-8247 ~~By December 1998, in~~ In each trauma region,
18 a regional trauma system quality assurance program shall be
19 established by the health care facilities designated as advanced,
20 basic, comprehensive, and general level trauma centers. The quality
21 assurance program shall evaluate trauma data quality, trauma care
22 delivery, patient care outcomes, and compliance with the Statewide
23 Trauma System Act. The regional medical director and all health
24 care providers and facilities which provide trauma care services
25 within the region shall be invited to participate in the quality
26 assurance program.

27 Sec. 104. Section 71-8248, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-8248 ~~By December 1998, the~~ The department shall
3 establish and maintain a statewide trauma registry to collect
4 and analyze data on the incidence, severity, and causes of
5 trauma, including traumatic brain injury. The registry shall be
6 used to improve the availability and delivery of prehospital or
7 out-of-hospital care and hospital trauma care services. Specific
8 data elements of the registry shall be defined by rule and
9 regulation of the department. Every health care facility designated
10 as an advanced, a basic, a comprehensive, or a general level trauma
11 center, a specialty level burn or pediatric trauma center, an
12 advanced, a basic, or a general level rehabilitation center, or a
13 prehospital or out-of-hospital provider shall furnish data to the
14 registry. All other hospitals may furnish trauma data as required
15 by the department by rule and regulation. All hospitals involved
16 in the care of a trauma patient shall have unrestricted access to
17 all prehospital reports for the trauma registry for that specific
18 trauma occurrence.

19 Sec. 105. Section 86-275, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 86-275 Electronic, mechanical, or other device means
22 any device or apparatus which can be used to intercept a wire,
23 electronic, or oral communication other than:

24 (1) Any telephone or telegraph instrument, equipment, or
25 facility, or any component thereof, (a) furnished to the subscriber
26 or user by a provider in the ordinary course of its business and
27 being used by the subscriber or user in the ordinary course of its

1 business or furnished by such subscriber or user for connection
2 to the facilities of such service and used by the subscriber or
3 user in the ordinary course of its business or (b) being used
4 by a provider in the ordinary course of its business or by an
5 investigative or law enforcement officer in the ordinary course of
6 his or her duties; or

7 (2) A hearing aid instrument or similar device being used
8 to correct subnormal hearing to not better than normal.

9 Sec. 106. Original sections 28-401, 28-407, 28-414,
10 37-413, 38-101, 38-121, 38-167, 38-507, 38-511, 38-512, 38-524,
11 38-1215, 38-1217, 38-1218, 38-1219, 38-1221, 38-1224, 38-1232,
12 38-1501, 38-1502, 38-1503, 38-1504, 38-1505, 38-1506, 38-1507,
13 38-1508, 38-1509, 38-1510, 38-1511, 38-1512, 38-1513, 38-1514,
14 38-1515, 38-1516, 38-1517, 38-1518, 38-2008, 38-2014, 38-2015,
15 38-2017, 38-2018, 38-2037, 38-2047, 38-2049, 38-2050, 38-2055,
16 38-2801, 38-2802, 38-2871, 69-2603, 71-201, 71-208.02, 71-208.06,
17 71-216, 71-219, 71-219.01, 71-219.02, 71-223.01, 71-224, 71-239,
18 71-242, 71-245, 71-2413, 71-2414, 71-2416, 71-2417, 71-5829.04,
19 71-5865, 71-8205, 71-8207, 71-8208, 71-8210, 71-8216, 71-8218,
20 71-8222, 71-8230, 71-8232, 71-8234, 71-8235, 71-8237, 71-8240,
21 71-8242, 71-8243, 71-8244, 71-8245, 71-8246, 71-8247, 71-8248, and
22 86-275, Reissue Revised Statutes of Nebraska, and sections 48-120,
23 71-604, 71-605, 71-2411, 71-2412, 71-2445, 71-2447, 71-2449,
24 71-2450, 71-5403, 71-5829.03, 71-5830.01, and 71-8239, Revised
25 Statutes Cumulative Supplement, 2008, are repealed.

26 Sec. 107. The following sections are outright repealed:
27 Sections 38-2009, 38-2051, 71-2415, 71-5829.01, 71-5829.02, and

AM952
LB195
MMM-04/15/2009

AM952
LB195
MMM-04/15/2009

- 1 71-8223, Reissue Revised Statutes of Nebraska, and section
- 2 71-1,106.01, Revised Statutes Cumulative Supplement, 2008.