

LEGISLATIVE BILL 195

Approved by the Governor May 22, 2009

Introduced by Gay, 14.

FOR AN ACT relating to public health and welfare; to amend sections 28-401, 28-407, 28-414, 37-413, 38-101, 38-121, 38-167, 38-507, 38-511, 38-512, 38-524, 38-1215, 38-1217, 38-1218, 38-1219, 38-1221, 38-1224, 38-1232, 38-1501, 38-1502, 38-1503, 38-1504, 38-1505, 38-1506, 38-1507, 38-1508, 38-1509, 38-1510, 38-1511, 38-1512, 38-1513, 38-1514, 38-1515, 38-1516, 38-1517, 38-1518, 38-2008, 38-2014, 38-2015, 38-2017, 38-2018, 38-2037, 38-2047, 38-2049, 38-2050, 38-2055, 38-2801, 38-2802, 38-2871, 69-2603, 71-201, 71-208.02, 71-208.06, 71-216, 71-219, 71-219.01, 71-219.02, 71-223.01, 71-224, 71-239, 71-242, 71-245, 71-2413, 71-2414, 71-2416, 71-2417, 71-3604, 71-5829.04, 71-5865, 71-8205, 71-8207, 71-8208, 71-8210, 71-8216, 71-8218, 71-8222, 71-8230, 71-8232, 71-8234, 71-8235, 71-8237, 71-8240, 71-8242, 71-8243, 71-8244, 71-8245, 71-8246, 71-8247, 71-8248, and 86-275, Reissue Revised Statutes of Nebraska, and sections 48-120, 71-604, 71-605, 71-2411, 71-2412, 71-2445, 71-2447, 71-2449, 71-2450, 71-3601, 71-3602, 71-3614, 71-5403, 71-5829.03, 71-5830.01, and 71-8239, Revised Statutes Cumulative Supplement, 2008; to adopt, change, and eliminate provisions relating to controlled substances, hearing aid fitting and dispensing, emergency medical services licensure classifications, physician assistants, transfer of prescriptions, barbering, the Emergency Box Drug Act, automated medication systems, tuberculosis detection and prevention, drug product selection, certificates of need, and statewide trauma systems; to define and redefine terms; to rename an act and a board; to harmonize provisions; to repeal the original sections; and to outright repeal sections 38-2009, 38-2051, 71-2415, 71-5829.01, 71-5829.02, and 71-8223, Reissue Revised Statutes of Nebraska, and section 71-1,106.01, Revised Statutes Cumulative Supplement, 2008.

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

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

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

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

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

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

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

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

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

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

(8) Dispense shall mean to deliver a controlled substance to an ultimate user or a research subject pursuant to a medical order issued by a

practitioner authorized to prescribe, including the packaging, labeling, or compounding necessary to prepare the controlled substance for such delivery;

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

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

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

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

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

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

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

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

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

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

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

(20) Practitioner shall mean a physician, a physician assistant, a dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a certified nurse midwife, a certified registered nurse anesthetist, a nurse practitioner, a scientific investigator, a pharmacy, a hospital, or any other

person licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of practice or research in this state, including an emergency medical service as defined in section 38-1207;

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

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

(23) State shall mean the State of Nebraska;

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

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

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

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

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

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

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

(b) Controlled substance analogue shall not include (i) a controlled substance, (ii) any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, ~~2003~~, 2009, (iii) any substance for which there is an approved new drug application, or (iv) with respect to a particular person, any substance if an exemption is in effect for investigational use for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, ~~2003~~, 2009, to the extent conduct with respect to such substance is pursuant to such exemption;

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

(32) Chart order shall mean an order for a controlled substance issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or

maintenance treatment pursuant to section 28-412. Chart order shall not include a prescription;

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

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

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

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

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

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

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

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

(41) Long-term care facility shall mean an intermediate care facility, an intermediate care facility for the mentally retarded, a long-term care hospital, a mental health center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act.

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

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

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

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

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

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

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

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

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

28-414 (1)(a) Except as otherwise provided in this subsection or section 28-412 or when administered directly by a practitioner to an ultimate

user, a controlled substance listed in Schedule II of section 28-405 shall not be dispensed without the written prescription bearing the signature of a practitioner authorized to prescribe. No ~~medical order~~ prescription for a controlled substance listed in Schedule II of section 28-405 shall be filled more than six months from the date of issuance. A prescription for a controlled substance listed in Schedule II of section 28-405 shall not be refilled.

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

(c) In nonemergency situations:

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

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

(iii) A controlled substance listed in Schedule II of section 28-405 may be dispensed pursuant to a facsimile of a written, signed prescription for administration to a resident of a long-term care facility; and

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

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

(ii) A prescription for a controlled substance listed in Schedule II of section 28-405 written for a patient in a long-term care facility or for a patient with a medical diagnosis documenting a terminal illness may be partially filled. Such prescription shall bear the words "terminally ill" or "long-term care facility patient" on its face. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the prescribing practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. For each partial filling, the dispensing pharmacist shall record on the back of the prescription or on another appropriate record, uniformly maintained and readily retrievable, the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. The total quantity of controlled substances listed in Schedule II which is dispensed in all partial fillings shall not exceed the total quantity prescribed. A prescription for a Schedule II controlled substance for a patient in a long-term care facility or a patient with a medical diagnosis documenting a terminal illness is valid for sixty days from the date of issuance or until discontinuance of the prescription, whichever occurs first.

(2)(a) Except as otherwise provided in this subsection or when administered directly by a practitioner to an ultimate user, a controlled substance listed in Schedule III, IV, or V of section 28-405 shall not be dispensed without a written or oral medical order. Such medical order is valid for six months after the date of issuance. Authorization from a practitioner authorized to prescribe is required to refill a prescription for a controlled substance listed in Schedule III, IV, or V of section 28-405. Such prescriptions shall not be refilled more than five times within six months after the date of issuance. Original prescription information for any controlled substance listed in Schedule III, IV, or V of section 28-405 may be

transferred between pharmacies for purposes of refill dispensing pursuant to section 38-2871.

(b) A controlled substance listed in Schedule III, IV, or V of section 28-405 may be dispensed pursuant to a facsimile of a written, signed prescription. The facsimile of a written, signed prescription shall serve as the original written prescription for purposes of this subsection and shall be maintained in accordance with the provisions of subdivision (3)(c) of this section.

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

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

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

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

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

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

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

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

(f)(i) The owner of any stock of controlled substances may cause such controlled substances to be destroyed pursuant to this subdivision when the need for such substances ceases. Complete records of controlled substances destruction pursuant to this subdivision shall be maintained by the registrant for five years from the date of destruction.

(ii) When the owner is a registrant:

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

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

(C) Solid controlled substances in opened unit-dose containers or which have been adulterated within a hospital where they were to be administered to patients at such hospital may be destroyed if witnessed by two ~~members of the healing arts~~ individuals credentialed under the Uniform Credentialing Act and designated by the hospital and recorded in accordance

with subsection (4) of section 28-411.

(iii) When the owner is a patient, such owner may transfer the controlled substances to a pharmacy for immediate destruction by two responsible parties acting on behalf of the pharmacy, one of whom must be a member of the healing arts. Individuals credentialed under the Uniform Credentialing Act and designated by the pharmacy.

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

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

(g) Before dispensing any controlled substance listed in Schedule II, III, IV, or V of section 28-405, the dispensing practitioner shall affix a label to the container in which the controlled substance is dispensed. Such label shall bear the name and address of the pharmacy or dispensing practitioner, the name of the patient, the date of filling, the consecutive number of the prescription under which it is recorded in the practitioner's prescription files, records, the name of the prescribing practitioner, and the directions for use of the controlled substance. Unless the prescribing practitioner writes "do not label" or words of similar import on the original written prescription or so designates in an oral prescription, such label shall also bear the name of the controlled substance.

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

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

37-413 (1) For the purpose of establishing and administering a mandatory firearm hunter education program for persons twelve through twenty-nine years of age who hunt with a firearm or crossbow any species of game, game birds, or game animals, the commission shall provide a program of firearm hunter education training leading to obtaining a certificate of successful completion in the safe handling of firearms and shall locate and train volunteer firearm hunter education instructors. The program shall provide a training course having a minimum of (a) ten hours of classroom instruction or (b) independent study on the part of the student sufficient to pass an examination given by the commission followed by such student's participation in a minimum of four hours of practical instruction. The program shall provide instruction in the areas of safe firearms use, shooting and sighting techniques, hunter ethics, game identification, and conservation management. The commission shall issue a firearm hunter education certificate of successful completion to persons having satisfactorily completed a firearm hunter education course accredited by the commission and shall print, purchase, or otherwise acquire materials as necessary for effective program operation. The commission shall adopt and promulgate rules and regulations for carrying out and administering such programs.

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

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

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

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

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

may adopt and promulgate rules and regulations allowing for the issuance of apprentice hunter education exemption certificates. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the State Game Fund.

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

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

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

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

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

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

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

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

- (a) Acupuncture;
- (b) Advanced practice nursing;
- (c) Alcohol and drug counseling;
- (d) Asbestos abatement, inspection, project design, and training;
- (e) Athletic training;
- (f) Audiology;
- (g) Speech-language pathology;
- (h) Body art;
- (i) Chiropractic;
- (j) Cosmetology;
- (k) Dentistry;

(l) Dental hygiene;
 (m) Electrology;
 (n) Emergency medical services;
 (o) Esthetics;
 (p) Funeral directing and embalming;
 (q) Hearing aid instrument dispensing and fitting;
 (r) Lead-based paint abatement, inspection, project design, and training;
 (s) Licensed practical nurse-certified;
 (t) Massage therapy;
 (u) Medical nutrition therapy;
 (v) Medical radiography;
 (w) Medicine and surgery;
 (x) Mental health practice;
 (y) Nail technology;
 (z) Nursing;
 (aa) Nursing home administration;
 (bb) Occupational therapy;
 (cc) Optometry;
 (dd) Osteopathy;
 (ee) Perfusion;
 (ff) Pharmacy;
 (gg) Physical therapy;
 (hh) Podiatry;
 (ii) Psychology;
 (jj) Radon detection, measurement, and mitigation;
 (kk) Respiratory care;
 (ll) Veterinary medicine and surgery;
 (mm) Public water system operation; and
 (nn) Constructing or decommissioning water wells and installing water well pumps and pumping equipment.

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

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

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

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

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

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

- (a) Board of Advanced Practice Registered Nurses;
- (b) Board of Alcohol and Drug Counseling;
- (c) Board of Athletic Training;
- (d) Board of Audiology and Speech-Language Pathology;
- (e) Board of Chiropractic;
- (f) Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art;
- (g) Board of Dentistry;
- (h) Board of Emergency Medical Services;
- (i) Board of Registered Environmental Health Specialists;
- (j) Board of Funeral Directing and Embalming;
- (k) Board of Hearing Aid Instrument Dispensers and Fitters, Specialists;
- (l) Board of Massage Therapy;
- (m) Board of Medical Nutrition Therapy;
- (n) Board of Medical Radiography;
- (o) Board of Medicine and Surgery;
- (p) Board of Mental Health Practice;
- (q) Board of Nursing;
- (r) Board of Nursing Home Administration;
- (s) Board of Occupational Therapy Practice;

- (t) Board of Optometry;
- (u) Board of Pharmacy;
- (v) Board of Physical Therapy;
- (w) Board of Podiatry;
- (x) Board of Psychology;
- (y) Board of Respiratory Care Practice;
- (z) Board of Veterinary Medicine and Surgery; and
- (aa) Water Well Standards and Contractors' Licensing Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Evaluate or diagnose any type of communication disorder;
- (2) Evaluate or diagnose any type of dysphagia;

- (3) Interpret evaluation results or treatment progress;
- (4) Consult or counsel, independent of the licensed audiologist or speech-language pathologist, with a patient, a patient's family, or staff regarding the nature or degree of communication disorders or dysphagia;
- (5) Plan patient treatment programs;
- (6) Represent himself or herself as an audiologist or speech-language pathologist or as a provider of speech, language, swallowing, or hearing treatment or assessment services;
- (7) Independently initiate, modify, or terminate any treatment program; or
- (8) Fit or dispense hearing aids, ~~instruments.~~

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

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

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

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

(c) Five members shall be appointed to include one member who is a representative of an approved training agency, one member who is a physician assistant with at least five years of experience and active in out-of-hospital emergency medical care education, one member who is a registered nurse with at least five years of experience and active in out-of-hospital emergency medical care education, and two public members who meet the requirements of section 38-165 and who have an expressed interest in the provision of out-of-hospital emergency medical care.

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

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

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

(3) Members shall serve five-year terms beginning on December 1 and may serve for any number of such terms. The terms of the members of the board appointed prior to December 1, 2008, shall be extended by two years and until December 1 of such year. Each member shall hold office until the expiration of his or her term. Any vacancy in membership, other than by expiration of a term, shall be filled within ninety days by the Governor by appointment as provided in subsection (2) of this section.

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

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

(6) Except as provided in subsection (5) of this section and

notwithstanding subsection (2) of this section, a member of the board who changes his or her licensure classification after appointment or has a licensure classification which is terminated under section 38-1217 when such licensure classification was a qualification for appointment shall be permitted to continue to serve as a member of the board until the expiration of his or her term.

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

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

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

(2) Provide for temporary licensure of an out-of-hospital emergency care provider who has completed the educational requirements for a licensure classification enumerated in subdivision (1)(b) of this section but has not completed the testing requirements for licensure under such subdivision. Temporary licensure shall be valid for one year or until a license is issued under such subdivision and shall not be subject to renewal. The rules and regulations shall include qualifications and training necessary for issuance of a temporary license, the practices and procedures authorized for a temporary licensee, and supervision required for a temporary licensee;

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

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

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

~~(5)~~ (6) Provide for the approval of training agencies and establish minimum standards for services provided by training agencies;

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

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

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

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

an alternative to continuing education. The reinstatement requirements for out-of-hospital emergency care providers shall allow reinstatement at the same or any lower level of licensure for which the out-of-hospital emergency care provider is determined to be qualified;

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

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

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

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

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

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

(2) The department and the board shall consider the following factors, in addition to other factors required or permitted by the Emergency Medical Services Practice Act, when adopting rules and regulations for a licensure classification:

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

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

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

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

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

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

(1) Administer the Emergency Medical Services Practice Act;

(2) Provide for curricula which will allow out-of-hospital emergency care providers and users of automated external defibrillators as defined in section 71-51,102 to be trained for the delivery of practices and procedures in units of limited subject matter which will encourage continued development of abilities and use of such abilities through additional authorized practices

and procedures;

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

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

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

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

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

(3) An individual holding a certificate under the Emergency Medical Services Act on December 1, 2008, shall be deemed to be holding a license under the Uniform Credentialing Act and the Emergency Medical Services Practice Act on such date. The certificate holder may continue to practice under such certificate as a license in accordance with the Uniform Credentialing Act until the certificate would have expired under its terms.

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

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

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

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

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

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

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

(3) No physician medical director shall incur any liability by reason of his or her use of any unmodified protocol, standing order, operating procedure, or guideline provided by the board pursuant to subdivision ~~(7)~~ (8) of section 38-1217.

Sec. 19. Section 38-1501, Reissue Revised Statutes of Nebraska, is

amended to read:

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

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

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

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

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

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

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

Sec. 23. Section 38-1505, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

38-1508 The board shall consist of five professional members and one public member appointed pursuant to section 38-158. The members shall meet the requirements of sections 38-164 and 38-165. The professional members shall consist of three licensed hearing aid instrument dispensers and fitters, specialists, one otolaryngologist, and one audiologist until one licensed hearing instrument specialist vacates his or her office or his or her term expires, whichever occurs first, at which time the professional members of the board shall consist of three licensed hearing instrument specialists, at least one of whom does not hold a license as an audiologist, one otolaryngologist, and one audiologist. At the expiration of the four-year terms of the members serving on December 1, 2008, successors shall be appointed for five-year terms.

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

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

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

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

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

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

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

(2) The act shall not apply to a person who is a physician licensed to practice in this state, except that such physician shall not delegate the authority to fit and dispense hearing aids instruments unless the person to whom the authority is delegated is licensed as a hearing instrument specialist under the act.

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

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

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

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

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

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

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

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

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

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

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

38-1513 (1) The department, with the recommendation of the board, shall issue a temporary license to any person who has met the requirements for licensure as a hearing instrument specialist pursuant to subsection (1) of section 38-1512. Previous experience or a waiting period shall not be required to obtain a temporary license.

(2) Any person who desires a temporary license shall make application to the department. The temporary license shall be issued for a

period of one year. A person holding a valid license as a hearing instrument specialist shall be responsible for the supervision and training of such applicant and shall maintain adequate personal contact with him or her.

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

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

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

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

- (a) Basic physics of sound;
- (b) The anatomy and physiology of the ear; and
- (c) The function of hearing ~~aids+~~ instruments; and

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

- (a) Pure tone audiometry, including air conduction testing and bone conduction testing;
- (b) Live voice or recorded voice speech audiometry;
- (c) Masking when indicated;
- (d) Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing ~~aid+~~ instrument; and
- (e) Taking earmold impressions.

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

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

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

38-1516 An applicant for licensure ~~to practice as a hearing aid instrument dispensing and fitting specialist~~ who has met the standards set by the board pursuant to section 38-126 for a license based on licensure in another jurisdiction but is not practicing at the time of application for licensure shall present proof satisfactory to the department that he or she has within the three years immediately preceding the application for licensure completed continuing competency requirements approved by the board pursuant to section 38-145.

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

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

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

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

(3) Violation of any provision of the Hearing Aid Instrument Dispensers and Fitters Specialists Practice Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

38-2037 In addition to the grounds for disciplinary action found in sections 38-178 and 38-179, a license to practice medicine and surgery or osteopathic medicine and surgery or a license to practice as a physician assistant may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-196 when the applicant or licensee fails to comply with the provisions of section 71-603.01, 71-604, 71-605, or 71-606 relating to the signing of birth and death certificates.

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

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

~~(a) In the office of the supervising physician where such physician maintains his or her primary practice;~~

~~(b) In any other office which is operated by the supervising physician with the personal presence of the supervising physician. The physician assistant may function without the personal presence of the supervising physician in an office other than where such physician maintains his or her primary practice as provided in subsection (2) of this section and when approved on an individual basis by the department, with the recommendation of the board. Any such approval shall require site visits by the supervising physician, regular reporting to the supervising physician by the physician assistant, and arrangements for supervision at all times by the supervising physician which are sufficient to provide quality medical care;~~

~~(c) In a hospital, with the approval of the governing board of such hospital, where the supervising physician is a member of the staff and the physician assistant is subject to the rules and regulations of the hospital. Such rules and regulations may include, but need not be limited to, reasonable~~

requirements that physician assistants and the supervising physician maintain professional liability insurance with such coverage and limits as may be established by the hospital governing board, upon the recommendation of the medical staff; or

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

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

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

(3) Each physician assistant and his or her supervising physician shall be responsible to ensure that (a) the scope of practice of the physician assistant is identified, (b) the delegation of medical tasks is appropriate to the level of competence of the physician assistant, (c) the relationship of and access to the supervising physician is defined, and (d) a process for evaluation of the performance of the physician assistant is established.

(4) A physician assistant may pronounce death and may complete and sign death certificates and any other forms if such acts are within the scope of practice of the physician assistant, are delegated by his or her supervising physician, and are not otherwise prohibited by law.

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

~~(2) The~~ (6) For physician assistants with less than two years of experience, the department, with the recommendation of the board, shall adopt and promulgate rules and regulations establishing minimum requirements for the personal presence of the supervising physician, stated in hours or percentage of practice time, and - The board may provide different minimum requirements for the personal presence of the supervising physician based on the geographic location of the supervising physician's primary and other practice sites and other factors the board deems relevant.

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

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

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

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

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

~~(4)~~ (3) Physician assistants approved by the board prior to April

16, 1985, shall not be required to complete the proficiency examination.

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

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

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

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

(c) A description by the physician of his or her, or physicians of their, practice and the way in which the assistant or assistants shall be utilized. The application shall provide for the personal presence of the supervising physician in conformance with requirements established by the department, with the recommendation of the board, under section 38-2047.

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

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

(1) To be a supervising physician, a person shall:

(a) Be licensed to practice medicine and surgery under the Uniform Credentialing Act;

(b) Have no restriction imposed by the board on his or her ability to supervise a physician assistant; and

(c) Maintain an agreement with the physician assistant as provided in subsection (2) of this section.

(2) (a) An agreement between a supervising physician and a physician assistant shall (i) provide that the supervising physician will exercise supervision over the physician assistant in accordance with the Medicine and Surgery Practice Act and the rules and regulations adopted and promulgated under the act relating to such agreements, (ii) define the scope of practice of the physician assistant, (iii) provide that the supervising physician will retain professional and legal responsibility for medical services rendered by the physician assistant pursuant to such agreement, and (iv) be signed by the supervising physician and the physician assistant.

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

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

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

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

38-2055 A physician assistant may prescribe drugs and devices as delegated to do so by a supervising physician. Any limitation placed by the supervising physician on the prescribing authority of the physician assistant shall be recorded on the physician assistant's scope of practice agreement established pursuant to rules and regulations adopted and promulgated under the Medicine and Surgery Practice Act. All prescriptions and prescription container labels shall bear the name of the supervising physician and the physician assistant and, if required for purposes of reimbursement, the name of the supervising physician. A physician assistant to whom has been delegated the authority to prescribe controlled substances shall obtain a federal Drug Enforcement Administration registration number. When prescribing Schedule

~~II controlled substances, the prescription container label shall bear all information required by the federal Controlled Substances Act of 1970.~~

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

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

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

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

Sec. 49. Long-term care facility means an intermediate care facility, an intermediate care facility for the mentally retarded, a long-term care hospital, a mental health center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act.

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

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

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

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

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

(4) The receiving pharmacist or pharmacist intern indicates on the record of the transferred prescription that the prescription is transferred;

(5) The transferred prescription includes the following information:

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

(b) The original number of refills authorized;

(c) The date of original dispensing;

(d) The number of valid refills remaining;

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

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

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

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

48-120 (1)(a) The employer is liable for all reasonable medical, surgical, and hospital services, including plastic surgery or reconstructive surgery but not cosmetic surgery when the injury has caused disfigurement, appliances, supplies, prosthetic devices, and medicines as and when needed, which are required by the nature of the injury and which will relieve pain or promote and hasten the employee's restoration to health and employment, and includes damage to or destruction of artificial members, dental appliances, teeth, hearing aids, instruments, and eyeglasses, but, in the case of dental appliances, hearing aids, instruments, or eyeglasses, only if such damage or destruction resulted from an accident which also caused personal injury entitling the employee to compensation therefor for disability or treatment, subject to the approval of and regulation by the Nebraska Workers' Compensation Court, not to exceed the regular charge made for such service in similar cases.

(b) Except as provided in section 48-120.04, the compensation court shall establish schedules of fees for such services. The compensation court

shall review such schedules at least biennially and adopt appropriate changes when necessary. The compensation court may contract with any person, firm, corporation, organization, or government agency to secure adequate data to establish such fees. The compensation court shall publish and furnish to the public the fee schedules established pursuant to this subdivision and section 48-120.04. The compensation court may establish and charge a fee to recover the cost of published fee schedules.

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

(d) A workers' compensation insurer, risk management pool, self-insured employer, or managed care plan certified pursuant to section 48-120.02 may contract with a provider or provider network for medical, surgical, or hospital services. Such contract may establish fees for services different than the fee schedules established under subdivision (1)(b) of this section or established under section 48-120.04. Such contract shall be in writing and mutually agreed upon prior to the date services are provided.

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

(2)(a) The employee has the right to select a physician who has maintained the employee's medical records prior to an injury and has a documented history of treatment with the employee prior to an injury or a physician who has maintained the medical records of an immediate family member of the employee prior to an injury and has a documented history of treatment with an immediate family member of the employee prior to an injury. For purposes of this subsection, immediate family member means the employee's spouse, children, parents, stepchildren, and stepparents. The employer shall notify the employee following an injury of such right of selection in a form and manner and within a timeframe established by the compensation court. If the employer fails to notify the employee of such right of selection or fails to notify the employee of such right of selection in a form and manner and within a timeframe established by the compensation court, then the employee has the right to select a physician. If the employee fails to exercise such right of selection in a form and manner and within a timeframe established by the compensation court following notice by the employer pursuant to this subsection, then the employer has the right to select the physician. If selection of the initial physician is made by the employee or employer pursuant to this subsection following notice by the employer pursuant to this subsection, the employee or employer shall not change the initial selection of physician made pursuant to this subsection unless such change is agreed to by the employee and employer or is ordered by the compensation court pursuant to subsection (6) of this section. If compensability is denied by the workers' compensation insurer, risk management pool, or self-insured employer, (i) the employee has the right to select a physician and shall not be made to enter a managed care plan and (ii) the employer is liable for medical, surgical, and hospital services subsequently found to be compensable. If the employer has exercised the right to select a physician pursuant to this subsection and if the compensation court subsequently orders reasonable medical services previously refused to be furnished to the employee by the physician selected by the employer, the compensation court shall allow the employee to select another physician to furnish further medical services. If the employee selects a physician located in a community not the home or place of work of the employee and a physician is available in the local community or in a closer community, no travel expenses shall be required to be paid by the employer or his or her workers' compensation insurer.

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

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

(d) If, due to the nature of the injury or its occurrence away from the employer's place of business, the employee or the employer is unable

to select a physician using the procedures provided by this subsection, the selection requirements of this subsection shall not apply as long as the inability to make a selection persists.

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

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

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

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

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

(6) The compensation court shall have the authority to determine the necessity, character, and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of physician, hospital, rehabilitation facility, or other medical services when it deems such change is desirable or necessary. Any dispute regarding medical, surgical, or hospital services furnished or to be furnished under this section may be submitted by the parties, the supplier of such service, or the compensation court on its own motion for informal dispute resolution by a staff member of the compensation court or an outside mediator pursuant to section 48-168. In addition, any party or the compensation court on its own motion may submit such a dispute for a medical finding by an independent medical examiner pursuant to section 48-134.01. Issues submitted for informal dispute resolution or for a medical finding by an independent medical examiner may include, but are not limited to, the reasonableness and necessity of any medical treatment previously provided or to be provided to the injured employee. The compensation court may adopt and promulgate rules and regulations regarding informal dispute resolution or the submission of disputes to an independent medical examiner that are considered necessary to effectuate the purposes of this section.

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

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

(9) Notwithstanding any other provision of this section, a workers' compensation insurer, risk management pool, or self-insured employer may

contract for medical, surgical, hospital, and rehabilitation services to be provided through a managed care plan certified pursuant to section 48-120.02. Once liability for medical, surgical, and hospital services has been accepted or determined, the employer may require that employees subject to the contract receive medical, surgical, and hospital services in the manner prescribed in the contract, except that an employee may receive services from a physician selected by the employee pursuant to subsection (2) of this section if the physician so selected agrees to refer the employee to the managed care plan for any other treatment that the employee may require and if the physician so selected agrees to comply with all the rules, terms, and conditions of the managed care plan. If compensability is denied by the workers' compensation insurer, risk management pool, or self-insured employer, the employee may leave the managed care plan and the employer is liable for medical, surgical, and hospital services previously provided. The workers' compensation insurer, risk management pool, or self-insured employer shall give notice to employees subject to the contract of eligible service providers and such other information regarding the contract and manner of receiving medical, surgical, and hospital services under the managed care plan as the compensation court may prescribe.

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

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

Sec. 53. Section 71-201, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

Any barber shop or barber school license and any booth rental permit may be suspended, revoked, or denied renewal by the board for violation of any provision of the statutes or any rule or regulation of the board pertaining to the operation or sanitation of barber shops, or barber schools, or booths under a booth rental permit after due notice and hearing before the board.

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

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

barbering services.

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

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

(2) A person shall be eligible for registration as a barber instructor if:

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

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

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

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

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

(3) One registered barber instructor or assistant barber instructor shall be employed for each fifteen students, or fraction thereof, enrolled in a barber school, except that each barber school shall have not less than two instructors, one of whom shall be a registered barber instructor, regardless of the number of students. Additional assistant barber instructors shall be permitted on a working ratio of two assistant barber instructors for every registered barber instructor. A barber school operated by a nonprofit organization which neither charges any tuition to its students nor makes any charge to the persons upon whom work is performed shall not be required to have more than one instructor, regardless of the number of students, which instructor shall be a registered barber instructor.

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

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

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

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

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

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

(6) A person who is a registered barber instructor before September 9, 1993, may continue to practice as a registered barber instructor on and after such date without meeting the changes in the registration requirements of this section imposed by Laws 1993, LB 226. A person who is a registered

assistant barber instructor before September 9, 1993, and who seeks to register as a barber instructor on or after September 9, 1993, may meet the requirements for registration as a barber instructor either as such requirements existed before such date or as such requirements exist on or after such date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

funds.

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

71-219.01 Application for a license to operate a barber school or college shall be made on a form furnished by the board. It shall contain such information relative to ownership, management, instructors, number of students, and other data concerning such business as may be required by the board. The board shall collect, in addition to the ~~annual~~ approval fee, a fee in an amount set by the board for every barber school opened after August 27, 1971. The ~~annual~~ fee for approval of a barber school or college, the fee for reinstatement of a delinquent license, and the fee for the transfer of license or change of ownership of a barber school or college shall be set by the board. No fee shall be collected if the change in ownership is caused by a present license owner incorporating.

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

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

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

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

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

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

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

71-223.01 The board shall by rules and regulations duly adopted prescribe sanitary requirements for barber shops and barber schools. The board or its employees shall regularly inspect all barber shops and barber schools in this state to insure compliance with such regulations. Such sanitary requirements and inspections shall include all activities, in addition to barbering as defined in section 71-202, taking place on the licensed premises. A written report of each such inspection made shall be submitted to the ~~barber~~ board. Each school or barber shop shall be called upon at least once each ~~year~~ licensing period for the purpose of inspection prior to the issuance of its license to be eligible for ~~annual~~ renewal of certification or registration.

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

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

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

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

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

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

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

section.

(2) An applicant for licensure without examination under subsection (1) of this section shall file with the board (a) an application on a form provided by the board, (b) a copy of the license issued by the state, territory, or country in which the applicant is licensed, (c) the applicant's social security number, (d) documents demonstrating that the requirements for licensure in such state, territory, or country are substantially equivalent to the requirements for licensure under the Barber Act, and (e) the fee required pursuant to section 71-219.

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

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

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

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

(1) That the requirements for licensure or registration were substantially equal to those in force in this state at the time such license was issued; or

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

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

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

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

71-245 The provisions of the Barber Act, relating to applications, transmittal of the names of eligible candidates, certification of successful applicants, and issuance of licenses thereto, in the case of regular examinations, applies apply as far as applicable to applicants for a reciprocal license or for a license issued without examination pursuant to section 64 of this act.

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

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

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

(3) When a birth occurs outside an institution, the certificate of

birth shall be prepared and filed by one of the following:

- (a) The physician or physician assistant in attendance at or immediately after the birth;
- (b) The father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred; or
- (c) Any other person in attendance at or immediately after the birth.

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

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

(2) The physician or physician assistant shall have the responsibility and duty to complete and sign in his or her own handwriting or by electronic means pursuant to section 71-603.01, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician or physician assistant was in attendance, the funeral director and embalmer shall refer the case to the county attorney who shall have the responsibility and duty to complete and sign the death certificate in his or her own handwriting or by electronic means pursuant to section 71-603.01.

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

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or complete the record.

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

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

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

the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the department within ten days of the disinterment.

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

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

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

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

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

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

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

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

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

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

(5) ~~Institution shall mean~~ Long-term care facility means an intermediate care facility, an intermediate care facility for the mentally retarded, a long-term care hospital, a mental health center, a nursing facility, and or a skilled nursing facility, as such terms are defined in ~~sections 71-420, 71-421, 71-423, 71-424, and 71-429,~~ the Health Care Facility Licensure Act;

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

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

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

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

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

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

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

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

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

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

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

(c) (3) The exterior of each emergency box shall be labeled so as to clearly indicate that it is an emergency box for use in emergencies only. The label shall contain a listing of the drugs contained in the box, including the name, strength, route of administration, quantity, and expiration date of each drug, and the name, address, and telephone number of the supplying pharmacist ~~pharmacy~~;

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

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

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

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

Sec. 71. Section 71-2413, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Except for the removal of expired drugs as provided in subsection (4) of this section, drugs shall be removed from emergency boxes only pursuant to a prescription. Whenever access to the emergency box occurs, the prescription and proof of use shall be provided to the supplying pharmacist pharmacy and shall be recorded on the resident's medical record by authorized personnel of the institution ~~long-term care facility~~. Removal of any drug from an emergency box by authorized personnel of the institution long-term care facility shall be recorded on a form showing the name of the resident who received the drug, his or her room number, the name of the drug,

the strength of the drug, the quantity used, the dose administered, the route of administration, the date the drug was used, the time of usage, the disposal of waste, if any, and the signature ~~of the~~ or signatures of authorized personnel. The form shall be maintained at the ~~institution~~ long-term care facility for a period of ~~twenty-four months~~ five years from the date of removal with a copy of the form to be provided to the supplying ~~pharmacist-~~ pharmacy.

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

(4) Upon the expiration of any drug in the emergency box, the ~~supplying pharmacist or another~~ pharmacist designated by the supplying ~~pharmacist~~ pharmacy shall replace the expired drug, reseal the box, and update the drug listing on the exterior of the box. The ~~expired drug shall be immediately destroyed within the institution by a pharmacist,~~ and such destruction shall be witnessed and documented by such ~~pharmacist.~~ If the ~~expired drug is a controlled substance listed in Schedule II, III, IV, or V of section 28-405,~~ it shall be destroyed pursuant to subdivision (3)-(f)-(iv) of section 28-414. Records pertaining to the documentation of expired drugs which are destroyed shall be maintained at the institution for a period of five years from the date of destruction with a copy of such records to be provided to the ~~supplying pharmacist.~~ Emergency box drugs shall be considered inventory of the supplying pharmacy of the ~~supplying pharmacist~~ until such time as they are removed for administration, ~~or destruction.~~

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

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

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

71-2414 The department shall have (1) the authority to inspect any emergency box and (2) access to the records of the supplying ~~pharmacist~~ and the institution pharmacy and the long-term care facility for inspection. Refusal to allow the department to inspect an emergency box or to have access to records shall be grounds for a disciplinary action against the supplying ~~pharmacist or the license of the institution.~~ pharmacy or the license of the long-term care facility.

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

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

(2) If the department determines to limit, suspend, or revoke the authority of a supplying ~~pharmacist~~ pharmacy to maintain emergency boxes in an ~~institution~~ a long-term care facility or to limit, suspend, or revoke the authority of an ~~institution~~ a long-term care facility to maintain an emergency box, it shall send to the supplying ~~pharmacist or institution~~ pharmacy or the long-term care facility a notice of such determination. The notice may be served by any method specified in section 25-505.01, or the department may permit substitute or constructive service as provided in section 25-517.02 when service cannot be made with reasonable diligence by any of the methods specified in section 25-505.01. The limitation, suspension, or revocation shall become final thirty days after receipt of the notice unless the supplying ~~pharmacist or institution,~~ pharmacy or the long-term care facility, within such thirty-day period, requests a hearing in writing. The supplying

~~pharmacist or institution~~ pharmacy or the long-term care facility shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed, set aside, or modified, and a copy of such decision setting forth the findings of facts and the particular reasons on which it is based shall be sent to the supplying ~~pharmacist or institution~~ pharmacy or the long-term care facility. The parties may appeal the final decision in accordance with the Administrative Procedure Act. Witnesses may be subpoenaed by either party and shall be allowed a fee at the statutory rate.

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

(4) The supplying ~~pharmacist or institution~~ pharmacy or the long-term care facility shall not maintain an emergency box after ~~his, her, or~~ its authority to maintain such box has been revoked or during the time such authority has been suspended. If the authority is suspended, the suspension shall be for a definite period of time. Such authority shall be automatically reinstated on the expiration of such period. If such authority has been revoked, such revocation shall be permanent, except that at any time after the expiration of two years, application for reinstatement of authority may be made to the department. ~~Any such application for reinstatement by a supplying pharmacist may not be received by the department unless accompanied by a written recommendation of reinstatement by the Board of Pharmacy.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(7)~~ (8) Pharmacist care means the provision by a pharmacist of medication therapy management, with or without the dispensing of drugs or devices, intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process;

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

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

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

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

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

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

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

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

- (1) The description and location within the hospital, long-term care facility, or pharmacy of the automated medication system or equipment being used;
- (2) The name of the individual or individuals responsible for implementation of and compliance with the policies and procedures;
- (3) Medication access and information access procedures;
- (4) Security of inventory and confidentiality of records in compliance with state and federal laws, rules, and regulations;
- (5) A description of how and by whom the automated medication system is being utilized, including processes for filling, verifying, dispensing, and distributing medications;
- (6) Staff education and training;
- (7) Quality assurance and quality improvement programs and processes;
- (8) Inoperability or emergency downtime procedures;
- (9) Periodic system maintenance; and
- (10) Medication security and controls.

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

71-2449 (1) An automated medication distribution machine:
 (a) Is subject to the requirements of section 71-2447; and
 (b) May be operated in a hospital or long-term care facility for medication administration pursuant to a chart order or prescription by a licensed health care professional.

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

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

Sec. 78. Section 71-2450, Revised Statutes Cumulative Supplement, 2008, is amended to read:

71-2450 A pharmacist providing pharmacist remote order entry shall:
 (1) Be located within the United States;
 (2) Maintain adequate security and privacy in accordance with state and federal laws, rules, and regulations;
 (3) Be linked to one or more hospitals, long-term care facilities,

or pharmacies for which services are provided via computer link, video link, audio link, or facsimile transmission;

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

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

Sec. 79. Section 71-3601, Revised Statutes Cumulative Supplement, 2008, is amended to read:

71-3601 For purposes of the Tuberculosis Detection and Prevention Act:

(1) Communicable tuberculosis means tuberculosis manifested by a laboratory report of sputum or other body fluid or excretion found to contain tubercle bacilli or by chest X-ray findings interpreted as active tuberculosis by competent medical authority;

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

(3) Directed health measure means any measure, whether prophylactic or remedial, intended and directed to prevent, treat, or limit the spread of tuberculosis;

~~(3)~~ (4) Facility means a structure in which suitable isolation for tuberculosis can be given and which is approved by the department for the detention of recalcitrant tuberculosis tuberculous persons;

~~(4)~~ (5) Local health officer means (a) the health director of a local public health department as defined in section 71-1626 or (b) the medical advisor to the board of health of a county, city, or village;

~~(5)~~ (6) Recalcitrant tuberculous person means a person affected with tuberculosis in an active stage who by his or her conduct or mode of living endangers the health and well-being of other persons, by exposing them to tuberculosis, and who refuses to accept adequate treatment; and

~~(6)~~ (7) State health officer means the chief medical officer as described in section 81-3115.

Sec. 80. Section 71-3602, Revised Statutes Cumulative Supplement, 2008, is amended to read:

71-3602 (1) When a person with communicable tuberculosis violates the rules, regulations, or orders adopted and promulgated by the department and is thereby conducting himself or herself in such a way as to expose others to danger of infection, after having been ordered by the state health officer or a local health officer to comply, there are reasonable grounds to believe that a person has communicable tuberculosis and the person refuses to submit to the examination necessary to determine the existence of communicable tuberculosis, the state health officer or local health officer may order such person to submit to such examination. If such person refuses to comply with such order, the state health officer or a local health officer shall institute proceedings for commitment, returnable to the county court of the county in which the person resides or, if the person is a nonresident or has no permanent residence, in the county in which the person is found. Strictness of pleading is not required, and a general allegation that the public health requires commitment of the person is sufficient.

(2) When a person with communicable tuberculosis conducts himself or herself in such a way as to expose another person to the danger of infection, the state health officer or local health officer may order such person to submit to directed health measures necessary for the treatment of the person and to prevent the transmission of the disease. If such person refuses to comply with such order, the state health officer or a local health officer shall institute proceedings for commitment, returnable to the county court of the county in which the person resides or, if the person is a nonresident or has no permanent residence, in the county in which the person is found. Strictness of pleading is not required, and a general allegation that the public health requires commitment of the person is sufficient.

Sec. 81. Section 71-3604, Reissue Revised Statutes of Nebraska, is amended to read:

71-3604 (1) Upon the hearing set in the order, the person named in the order shall have a right to be represented by counsel, to confront and cross-examine witnesses against him or her, and to have compulsory process for the securing of witnesses and evidence in his or her own behalf.

(2) Upon a consideration of the petition and evidence, if

(a) If the court finds that there are reasonable grounds to believe that the person named in the petition has communicable tuberculosis and has refused to submit to an examination to determine the existence of communicable tuberculosis, the court shall order such person to submit to such examination.

If after such examination is completed it is determined that the person has communicable tuberculosis, the court shall order directed health measures necessary for the treatment of the person and to prevent the transmission of the disease; or

(b) If the court finds that the person named in the petition has communicable tuberculosis and conducts himself or herself in such a way as to be a danger to the public health, an order shall be issued committing the person named to a facility and directing the sheriff to take him or her into custody and deliver him or her to the facility or to submit to directed health measures necessary for the treatment of the person and to prevent the transmission of the disease.

(3) If the court does not so find, the petition shall be dismissed. The cost of transporting such person to the facility shall be paid from county general funds.

Sec. 82. Section 71-3614, Revised Statutes Cumulative Supplement, 2008, is amended to read:

71-3614 (1) When any person who has communicable ~~or contagious~~ tuberculosis and who has relatives, friends, or a private or public agency or organization willing to undertake the obligation to support him or her or to aid in supporting him or her in any other state or country, the department may furnish him or her with the cost of transportation to such other state or country if it finds that the interest of the State of Nebraska and the welfare of such person will be promoted thereby. The expense of such transportation shall be paid by the department out of funds appropriated to it for the purpose of carrying out the Tuberculosis Detection and Prevention Act.

(2) No funds appropriated to the department for the purpose of carrying out the act shall be used for meeting the cost of the care, maintenance, or treatment of any person who has communicable ~~or contagious~~ tuberculosis in a health care facility on either an inpatient or an outpatient basis, or otherwise, for directed health measures, or for transportation to another state or country, to the extent that such cost is covered by an insurer or other third-party payor or any other entity under obligation to such person by contract, policy, certificate, or any other means whatsoever. The department in no case shall expend any such funds to the extent that any such person is able to bear the cost of such care, maintenance, treatment, or transportation. To protect the health and safety of the public, the department may pay, in part or in whole, the cost of drugs and medical care used to treat any person for or to prevent the spread of communicable tuberculosis and for evaluation and diagnosis of persons who have been identified as contacts of a person with communicable tuberculosis. The department shall determine the ability of a person to pay by consideration of the following factors: (a) The person's age, (b) the number of his or her dependents and their ages and physical condition, (c) the person's length of care, maintenance, or treatment, (d) his or her liabilities, ~~and~~ (e) the extent that such cost is covered by an insurer or other third-party payor, and (f) his or her assets. Pursuant to the Administrative Procedure Act, the department shall adopt and promulgate rules and regulations for making the determinations required by this subsection.

Rules, regulations, and orders in effect under this section prior to July 16, 2004, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

Sec. 83. Section 71-5403, Revised Statutes Cumulative Supplement, 2008, is amended to read:

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

(a) A practitioner designates that drug product selection is not permitted by specifying on ~~the face of~~ the prescription or by telephonic, facsimile, or electronic transmission that there shall be no drug product selection. For written prescriptions, the practitioner shall specify in his or her own handwriting on the prescription the phrase "no drug product selection", "dispense as written", "brand medically necessary", or "no generic substitution" or the notation "N.D.P.S.", "D.A.W.", or "B.M.N." or words or notations of similar import to indicate that drug product selection is not permitted. The pharmacist shall note "N.D.P.S.", "D.A.W.", "B.M.N.", "no drug product selection", "dispense as written", "brand medically necessary", "no generic substitution", or words or notations of similar import on ~~the face of~~ the prescription to indicate that drug product selection is not permitted if such is communicated orally by the prescribing practitioner; or

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

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

(a) The drug product, if it is in solid dosage form, has been marked

with an identification code or monogram directly on the dosage unit;

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

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

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

Sec. 84. Section 71-5829.03, Revised Statutes Cumulative Supplement, 2008, is amended to read:

71-5829.03 ~~No~~ Except as provided in section 71-5830.01, no person, including persons acting for or on behalf of a health care facility, shall engage in any of the following activities without having first applied for and received the necessary certificate of need:

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

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

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

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

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

~~(6)~~ (4) Any initial establishment of long-term care beds through conversion by a hospital of any type of hospital beds to long-term care beds if the total beds converted by the hospital are more than ten beds or more than ten percent of the total bed capacity of such hospital, whichever is less, over a two-year period;

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

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

Sec. 85. Section 71-5829.04, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

(2) The department shall review applications which require a certificate of need under section 71-5829.03 and determine if there is a need for additional long-term care beds ~~based on the following formula:~~ as provided in this section. No such application shall be approved if the current supply of licensed long-term care beds in the health planning region of the

proposed site exceeds the long-term care bed need for that health planning region. For purposes of this section:

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

~~In reaching this determination:~~

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

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

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

~~(e) (d) The minimum occupancy rate goal is ninety-five percent for health planning regions which are part of or contain a Metropolitan Statistical Area as defined by the United States Bureau of the Census. For all other health planning regions in the state, the minimum occupancy rate goal is ninety percent.~~

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

Sec. 86. Section 71-5830.01, Revised Statutes Cumulative Supplement, 2008, is amended to read:

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

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

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

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

(4) A transfer or relocation of long-term care beds from one facility to another entity in the same health planning region or any other health planning region. The receiving entity shall obtain a license for

the transferred or relocated beds within two years after the transfer or relocation. The department shall grant an extension of such time if the receiving entity is making progress toward the licensure of such beds.

Sec. 87. Section 71-5865, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 88. Section 71-8205, Reissue Revised Statutes of Nebraska, is amended to read:

71-8205 Advanced level trauma center means a trauma center which, in addition to providing all of the services provided by basic level and general level trauma centers, also provides definitive care for complex and severe trauma, an emergency trauma team available within fifteen minutes, twenty-four hours per day, inhouse operating room personnel who initiate surgery, a neurosurgeon available who provides neurological assessment and stabilization, a broad range of specialists available ~~within fifteen minutes~~ or less for consultation or care, comprehensive diagnostic capabilities and support equipment, and appropriate equipment for pediatric trauma patients in the emergency department, intensive care unit, and operating room.

Sec. 89. Section 71-8207, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 90. Section 71-8208, Reissue Revised Statutes of Nebraska, is amended to read:

71-8208 Communications system means a ~~radio and landline~~ any network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in the trauma system.

Sec. 91. Section 71-8210, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 92. Section 71-8216, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 93. Section 71-8218, Reissue Revised Statutes of Nebraska, is amended to read:

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

and (7) maintains appropriate equipment for pediatric trauma patients in the emergency department, intensive care unit, and operating room.

Sec. 94. Section 71-8222, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 95. Section 71-8230, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 96. Section 71-8232, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 97. Section 71-8234, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 98. Section 71-8235, Reissue Revised Statutes of Nebraska, is amended to read:

71-8235 Trauma system means an organized approach to providing care to trauma patients that provides personnel, facilities, and equipment for effective and coordinated trauma care. The trauma system shall identify facilities with specific capabilities to provide care and provide that trauma patients be treated at a designated trauma center appropriate to the patient's level of injury. Trauma system includes prevention, prehospital or out-of-hospital care, hospital care, and rehabilitative services regardless of insurance carrier or ability to pay. ~~The trauma system shall not restrict transfers for rehabilitative services.~~

Sec. 99. Section 71-8237, Reissue Revised Statutes of Nebraska, is amended to read:

71-8237 The State Trauma Advisory Board shall:

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

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

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

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

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

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

Sec. 100. Section 71-8239, Revised Statutes Cumulative Supplement, 2008, is amended to read:

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

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

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

Sec. 101. Section 71-8240, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

(7) ~~By September 1998, the~~ The minimum number of hospitals and health care facilities in the state and within each trauma care region that may provide designated trauma care services based upon approved regional trauma plans;

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

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

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

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

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

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

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

Sec. 102. Section 71-8242, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Purchase and maintain the statewide trauma registry pursuant to section 71-8248 to assess the effectiveness of trauma delivery and modify standards and other requirements of the statewide trauma system, to improve the provision of emergency medical services and trauma care;

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

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

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

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

Sec. 103. Section 71-8243, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 104. Section 71-8244, Reissue Revised Statutes of Nebraska, is amended to read:

71-8244 Any hospital, facility, rehabilitation center, or specialty level burn or pediatric trauma center that desires to be a designated center shall request designation from the department whereby each agrees to maintain a level of commitment and resources sufficient to meet responsibilities and standards required by the statewide trauma system. ~~The and to have an on-line medical controller available to out-of-hospital emergency medical services twenty-four hours a day, seven days a week.~~ By December 1998, the department shall determine by rule and regulation the manner and form of such requests. Upon receiving a request, the department shall review the request to determine whether there is compliance with standards for the trauma care level for which designation is desired or whether the appropriate governing

body verification documentation has been submitted. Any hospital, facility, rehabilitation center, or specialty level burn or pediatric trauma center which ~~meets such standards~~ submits such verification documentation shall be designated by the department and shall be included in the trauma system or plan established under the Statewide Trauma System Act. Any medical facility applying for designation may appeal its designation. The appeal shall be in accordance with the Administrative Procedure Act.

Designation is valid for a period of four years and is renewable upon receipt of a request from the medical facility for renewal prior to expiration. Any medical facility that is currently verified by ~~the American College of Surgeons~~ its governing body shall be designated at the corresponding level of designation for the same time period in Nebraska without the necessity of an onsite review by the department. Regional trauma advisory boards shall be notified promptly of designated medical facilities in their region so they may incorporate them into the regional plan. The department may revoke or suspend a designation if it determines that the medical facility is substantially out of compliance with the standards and has refused or been unable to comply after a reasonable period of time has elapsed. The department shall promptly notify the regional trauma advisory board of designation suspensions and revocations. Any rehabilitation or trauma center the designation of which has been revoked or suspended may request a hearing to review the action of the department.

Sec. 105. Section 71-8245, Reissue Revised Statutes of Nebraska, is amended to read:

71-8245 As part of the process to designate and renew the designation of hospitals and health care facilities as advanced, basic, comprehensive, or general level trauma centers, ~~advanced, basic, or general level rehabilitation centers, or specialty level burn or pediatric trauma centers,~~ the department may contract for onsite reviews of such hospitals and health care facilities to determine compliance with required standards. As part of the process to designate a health care facility as a basic or general rehabilitation center or specialty level burn or pediatric trauma center, the applicant shall submit to the department documentation of current verification from its governing body in its specialty area. Members of onsite review teams and staff included in onsite visits shall not divulge and cannot be subpoenaed to divulge information obtained or reports written pursuant to this section in any civil action, except pursuant to a court order which provides for the protection of sensitive information of interested parties, including the department: (1) In actions arising out of the designation of a hospital or health care facility pursuant to section 71-8244; (2) in actions arising out of the revocation or suspension of a designation under such section; or (3) in actions arising out of the restriction or revocation of the clinical or staff privileges of a health care provider, subject to any further restrictions on disclosure that may apply. Information that identifies an individual patient shall not be publicly disclosed without the patient's consent. When a medical facility requests designation for more than one service, the department may coordinate the joint consideration of such requests. Composition and qualification of the designation team shall be set forth in rules and regulations adopted under the Statewide Trauma System Act. Reports prepared pursuant to this section shall not be considered public records.

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

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

Sec. 106. Section 71-8246, Reissue Revised Statutes of Nebraska, is amended to read:

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

- (1) Assess and analyze regional trauma care needs;
- (2) Identify personnel, agencies, facilities, equipment, training, and education needed to meet regional needs;
- (3) Identify specific activities necessary to meet statewide standards and patient care outcomes and develop a plan of implementation for regional compliance;
- (4) ~~Establish~~ Promote agreements with providers outside the region to facilitate patient transfer;
- (5) Establish a regional budget;
- (6) Establish the minimum number and level of facilities to be designated which are consistent with state standards and based upon

availability of resources and the distribution of trauma within the region; and

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

Sec. 107. Section 71-8247, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 108. Section 71-8248, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 109. Section 86-275, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Any telephone or telegraph instrument, equipment, or facility, or any component thereof, (a) furnished to the subscriber or user by a provider in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used by the subscriber or user in the ordinary course of its business or (b) being used by a provider in the ordinary course of its business or by an investigative or law enforcement officer in the ordinary course of his or her duties; or

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

Sec. 110. Original sections 28-401, 28-407, 28-414, 37-413, 38-101, 38-121, 38-167, 38-507, 38-511, 38-512, 38-524, 38-1215, 38-1217, 38-1218, 38-1219, 38-1221, 38-1224, 38-1232, 38-1501, 38-1502, 38-1503, 38-1504, 38-1505, 38-1506, 38-1507, 38-1508, 38-1509, 38-1510, 38-1511, 38-1512, 38-1513, 38-1514, 38-1515, 38-1516, 38-1517, 38-1518, 38-2008, 38-2014, 38-2015, 38-2017, 38-2018, 38-2037, 38-2047, 38-2049, 38-2050, 38-2055, 38-2801, 38-2802, 38-2871, 69-2603, 71-201, 71-208.02, 71-208.06, 71-216, 71-219, 71-219.01, 71-219.02, 71-223.01, 71-224, 71-239, 71-242, 71-245, 71-2413, 71-2414, 71-2416, 71-2417, 71-3604, 71-5829.04, 71-5865, 71-8205, 71-8207, 71-8208, 71-8210, 71-8216, 71-8218, 71-8222, 71-8230, 71-8232, 71-8234, 71-8235, 71-8237, 71-8240, 71-8242, 71-8243, 71-8244, 71-8245, 71-8246, 71-8247, 71-8248, and 86-275, Reissue Revised Statutes of Nebraska, and sections 48-120, 71-604, 71-605, 71-2411, 71-2412, 71-2445, 71-2447, 71-2449, 71-2450, 71-3601, 71-3602, 71-3614, 71-5403, 71-5829.03, 71-5830.01, and 71-8239, Revised Statutes Cumulative Supplement, 2008, are repealed.

Sec. 111. The following sections are outright repealed: Sections 38-2009, 38-2051, 71-2415, 71-5829.01, 71-5829.02, and 71-8223, Reissue Revised Statutes of Nebraska, and section 71-1,106.01, Revised Statutes Cumulative Supplement, 2008.