

AMENDMENTS TO LB731

Introduced by Health and Human Services.

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

3 Section 1. Section 38-131, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 38-131 (1) An applicant for an initial license to practice as a
6 registered nurse, ~~or a licensed practical nurse, a physical therapist, or~~
7 a physical therapy assistant or to practice a profession which is
8 authorized to prescribe controlled substances shall be subject to a
9 criminal background check. Except as provided in subsection (3) of this
10 section, the applicant shall submit with the application a full set of
11 fingerprints which shall be forwarded to the Nebraska State Patrol to be
12 submitted to the Federal Bureau of Investigation for a national criminal
13 history record information check. The applicant shall authorize release
14 of the results of the national criminal history record information check
15 to the department. The applicant shall pay the actual cost of the
16 fingerprinting and criminal background check.

17 (2) This section shall not apply to a dentist who is an applicant
18 for a dental locum tenens under section 38-1122, to a physician or
19 osteopathic physician who is an applicant for a physician locum tenens
20 under section 38-2036, or to a veterinarian who is an applicant for a
21 veterinarian locum tenens under section 38-3335.

22 (3) An applicant for a temporary educational permit as defined in
23 section 38-2019 shall have ninety days from the issuance of the permit to
24 comply with subsection (1) of this section and shall have his or her
25 permit suspended after such ninety-day period if the criminal background
26 check is not complete or revoked if the criminal background check reveals
27 that the applicant was not qualified for the permit.

1 Sec. 2. Section 38-145, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-145 (1) The appropriate board shall establish continuing
4 competency requirements for persons seeking renewal of a credential.

5 (2) The purposes of continuing competency requirements are to ensure
6 (a) the maintenance by a credential holder of knowledge and skills
7 necessary to competently practice his or her profession, (b) the
8 utilization of new techniques based on scientific and clinical advances,
9 and (c) the promotion of research to assure expansive and comprehensive
10 services to the public.

11 (3) Each board shall consult with the department and the appropriate
12 professional academies, professional societies, and professional
13 associations in the development of such requirements.

14 (4)(a) For a profession for which there are no continuing education
15 requirements on December 31, 2002, the requirements may include, but not
16 be limited to, any one or a combination of the continuing competency
17 activities listed in subsection (5) of this section.

18 (b) For a profession for which there are continuing education
19 requirements on December 31, 2002, continuing education is sufficient to
20 meet continuing competency requirements. The requirements may also
21 include, but not be limited to, any one or a combination of the
22 continuing competency activities listed in subdivisions (5)(b) through
23 (5)(p) of this section which a credential holder may select as an
24 alternative to continuing education.

25 (5) Continuing competency activities may include, but not be limited
26 to, any one or a combination of the following:

- 27 (a) Continuing education;
- 28 (b) Clinical privileging in an ambulatory surgical center or
29 hospital as defined in section 71-405 or 71-419;
- 30 (c) Board certification in a clinical specialty area;
- 31 (d) Professional certification;

- 1 (e) Self-assessment;
- 2 (f) Peer review or evaluation;
- 3 (g) Professional portfolio;
- 4 (h) Practical demonstration;
- 5 (i) Audit;
- 6 (j) Exit interviews with consumers;
- 7 (k) Outcome documentation;
- 8 (l) Testing;
- 9 (m) Refresher courses;
- 10 (n) Inservice training;
- 11 (o) Practice requirement; or
- 12 (p) Any other similar modalities.

13 (6) Beginning with the first license renewal period which begins on
14 or after October 1, 2018, the continuing competency requirements for a
15 nurse midwife, dentist, physician, physician assistant, nurse
16 practitioner, podiatrist, and veterinarian who prescribes controlled
17 substances shall include at least five hours of continuing education
18 biennially regarding prescribing opiates as defined in section 28-401.
19 The continuing education may include education regarding prescribing and
20 administering opiates, the risks and indicators regarding development of
21 addiction to opiates, and emergency opiate situations. One-half hour of
22 the five hours of continuing education shall cover the prescription drug
23 monitoring program described in sections 71-2454 to 71-2456. This
24 subsection terminates on January 1, 2029.

25 Sec. 3. Section 38-1001, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 38-1001 Sections 38-1001 to 38-10,171 and sections 9, 10, 37 to 44,
28 and 58 to 65 of this act shall be known and may be cited as the
29 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
30 Practice Act.

31 Sec. 4. Section 38-1004, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 38-1004 For purposes of the Cosmetology, Electrology, Esthetics,
3 Nail Technology, and Body Art Practice Act and elsewhere in the Uniform
4 Credentialing Act, unless the context otherwise requires, the definitions
5 found in sections 38-1005 to 38-1056 and sections 9 and 10 of this act
6 apply.

7 Sec. 5. Section 38-1005, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 38-1005 Apprentice means a person engaged ~~registered under the~~
10 ~~Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art~~
11 ~~Practice Act to engage~~ in the study of any or all of the practices of
12 cosmetology under the supervision of an instructor in an apprentice
13 salon.

14 Sec. 6. Section 38-1017, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 38-1017 Cosmetology establishment means a cosmetology salon, a
17 mobile cosmetology salon, an esthetics salon, a school of cosmetology, a
18 school of esthetics, an apprentice salon, ~~cosmetic establishment,~~ or any
19 other place in which any or all of the practices of cosmetology are
20 performed on members of the general public for compensation or in which
21 instruction or training in any or all of the practices of cosmetology is
22 given, except when such practices constitute nonvocational training.

23 Sec. 7. Section 38-1018, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 38-1018 Cosmetology salon means a fixed structure or part thereof
26 licensed under the Cosmetology, Electrology, Esthetics, Nail Technology,
27 and Body Art Practice Act to serve as the site for the performance of any
28 or all of the practices of cosmetology by persons licensed ~~or registered~~
29 under such act.

30 Sec. 8. Section 38-1028, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 38-1028 Esthetics salon means a fixed structure or part thereof
2 licensed under the Cosmetology, Electrology, Esthetics, Nail Technology,
3 and Body Art Practice Act to serve as the site for the performance of any
4 or all of the practices of esthetics by persons licensed ~~or registered~~
5 under such act.

6 Sec. 9. Mobile cosmetology salon means a self-contained, self-
7 supporting, enclosed mobile unit licensed under the Cosmetology,
8 Electrology, Esthetics, Nail Technology, and Body Art Practice Act as a
9 mobile site for the performance of the practices of cosmetology by
10 persons licensed under the act.

11 Sec. 10. Mobile nail technology salon means a self-contained, self-
12 supporting, enclosed mobile unit licensed under the Cosmetology,
13 Electrology, Esthetics, Nail Technology, and Body Art Practice Act to
14 serve as a mobile site for the performance of the practices of nail
15 technology by persons licensed under the act.

16 Sec. 11. Section 38-1036, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 38-1036 Nail technology establishment means a nail technology salon,
19 a mobile nail technology salon, a nail technology school, or any other
20 place in which the practices of nail technology are performed on members
21 of the general public for compensation or in which instruction or
22 training in the practices of nail technology is given, except when such
23 practices constitute nonvocational training.

24 Sec. 12. Section 38-1038, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 38-1038 Nail technology salon means a fixed structure or part
27 thereof licensed under the Cosmetology, Electrology, Esthetics, Nail
28 Technology, and Body Art Practice Act to serve as the site for the
29 performance of the practices of nail technology by persons licensed ~~or~~
30 ~~registered~~ under the act.

31 Sec. 13. Section 38-1043, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 38-1043 Nonvocational training means the act of imparting knowledge
3 of or skills in any or all of the practices of cosmetology, nail
4 technology, esthetics, or electrology to persons not licensed ~~or~~
5 ~~registered~~ under the Cosmetology, Electrology, Esthetics, Nail
6 Technology, and Body Art Practice Act for the purpose of noncommercial
7 use by those receiving such training.

8 Sec. 14. Section 38-1058, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 38-1058 It shall be unlawful for any person, group, company, or
11 other entity to engage in any of the following acts without being duly
12 licensed ~~or registered~~ as required by the Cosmetology, Electrology,
13 Esthetics, Nail Technology, and Body Art Practice Act, unless
14 specifically excepted by such act:

15 (1) To engage in or follow or to advertise or hold oneself out as
16 engaging in or following any of the practices of cosmetology or to act as
17 a practitioner;

18 (2) To engage in or advertise or hold oneself out as engaging in the
19 teaching of any of the practices of cosmetology; or

20 (3) To operate or advertise or hold oneself out as operating a
21 cosmetology establishment in which any of the practices of cosmetology or
22 the teaching of any of the practices of cosmetology are carried out.

23 Sec. 15. Section 38-1061, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 38-1061 (1) All practitioners shall be licensed ~~or registered~~ by the
26 department under the Cosmetology, Electrology, Esthetics, Nail
27 Technology, and Body Art Practice Act in a category or categories
28 appropriate to their practice.

29 (2) Licensure shall be required before any person may engage in the
30 full, unsupervised practice or teaching of cosmetology, electrology,
31 esthetics, nail technology, or body art, and no person may assume the

1 title of cosmetologist, electrologist, esthetician, instructor, nail
2 technician, nail technology instructor, esthetics instructor, permanent
3 color technician, tattoo artist, body piercer, or body brander without
4 first being licensed by the department.

5 (3) All licensed practitioners shall practice in an appropriate
6 licensed establishment or facility.

7 Sec. 16. Section 38-1062, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 38-1062 In order to be licensed by the department by examination, an
10 individual shall meet, and present to the department evidence of meeting,
11 the following requirements:

12 (1) Has attained the age of seventeen years on or before the
13 beginning date of the examination for which application is being made;

14 (2) Has completed formal education equivalent to a United States
15 high school education;

16 (3) Possesses a minimum competency in the knowledge and skills
17 necessary to perform the practices for which licensure is sought, as
18 evidenced by successful completion of an examination in the appropriate
19 practices approved by the board and administered by the department;

20 (4) Possesses sufficient ability to read the English language to
21 permit the applicant to practice in a safe manner, as evidenced by
22 successful completion of the written examination; and

23 (5) Has graduated from a school of cosmetology or an apprentice
24 salon in or outside of Nebraska, a school of esthetics in or outside of
25 Nebraska, or a school of electrolysis upon completion of a program of
26 studies appropriate to the practices for which licensure is being sought,
27 as evidenced by a diploma or certificate from the school or apprentice
28 salon to the effect that the applicant has complied with the following:

29 (a) For licensure as a cosmetologist, the program of studies shall
30 consist of a minimum of one ~~two~~ thousand eight ~~one~~ hundred hours ~~and two~~
31 ~~thousand credits~~;

1 (b) For licensure as an esthetician, the program of studies shall
2 consist of a minimum of six hundred hours ~~and six hundred credits~~;

3 (c) For licensure as a cosmetology instructor, the program of
4 studies shall consist of a minimum of six ~~nine~~ hundred ~~twenty-five~~ hours
5 beyond the program of studies required for licensure as a cosmetologist
6 ~~earned in a period of not less than six months~~;

7 (d) For licensure as a cosmetology instructor, be currently licensed
8 as a cosmetologist in Nebraska, as evidenced by possession of a valid
9 Nebraska cosmetology license;

10 (e) For licensure as an electrologist, the program of studies shall
11 consist of a minimum of six hundred hours ~~and six hundred credits~~;

12 (f) For licensure as an electrology instructor, be currently
13 licensed as an electrologist in Nebraska and have practiced electrology
14 actively for at least two years immediately before the application; and

15 (g) For licensure as an esthetics instructor, completion of a
16 program of studies consisting of a minimum of three hundred hours beyond
17 the program of studies required for licensure as an esthetician and
18 current licensure as an esthetician in Nebraska.

19 Sec. 17. Section 38-1063, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 38-1063 ~~A complete application for examination shall be postmarked~~
22 ~~no later than fifteen days before the beginning of the examination for~~
23 ~~which application is being made. Applications received after such date~~
24 ~~shall be considered as applications for the next scheduled examination.~~
25 No application for any type of licensure ~~or registration~~ shall be
26 considered complete unless all information requested in the application
27 has been supplied, all seals and signatures required have been obtained,
28 and all supporting and documentary evidence has been received by the
29 department.

30 Sec. 18. Section 38-1065, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 38-1065 (1) Examinations approved by the board may be national
2 standardized examinations, but in all cases the examinations shall be
3 related to the knowledge and skills necessary to perform the practices
4 being examined and shall be related to the curricula required to be
5 taught in schools of cosmetology, schools of esthetics, or schools of
6 electrolysis.

7 ~~(2) At least two examinations shall be given annually.~~

8 (2) ~~(3)~~ Practical examinations may be offered as either written or
9 hands-on and shall be conducted in such a manner that the identity of the
10 applicant is not disclosed to the examiners in any way.

11 (3) ~~(4)~~ In order to successfully complete the examination, an
12 applicant shall obtain an average grade of seventy-five percent on all
13 examinations.

14 Sec. 19. Section 38-1066, Revised Statutes Supplement, 2017, is
15 amended to read:

16 38-1066 (1) The department may grant a license based on licensure in
17 another jurisdiction to any person who meets the requirements of
18 subdivisions (1) and (2) of section 38-1062 and who presents proof of the
19 following:

20 (a) That he or she is currently licensed in the appropriate category
21 in another jurisdiction and that he or she has never been disciplined or
22 had his or her license revoked. An applicant seeking licensure as an
23 instructor in the manner provided in this section shall be licensed as an
24 instructor in another jurisdiction. An applicant seeking licensure as a
25 cosmetologist in the manner provided in this section shall be licensed as
26 a cosmetologist in another jurisdiction. An applicant seeking licensure
27 as an esthetician in the manner provided in this section shall be
28 licensed as a cosmetologist, an esthetician, or an equivalent title in
29 another jurisdiction. An applicant seeking licensure as an esthetics
30 instructor in the manner provided in this section shall be licensed as a
31 cosmetology instructor, esthetics instructor, or the equivalent in

1 another jurisdiction. An applicant seeking licensure as an electrologist
2 or an electrology instructor in the manner provided in this section shall
3 be licensed as an electrologist or an electrology instructor,
4 respectively, in another jurisdiction;

5 (b) That such license was issued on the basis of an examination and
6 the results of the examination. If an examination was not required for
7 licensure in the other jurisdiction, the applicant shall take the
8 Nebraska examination; and

9 (c) That the applicant complies with the hour requirements of
10 subdivision (5) of section 38-1062 through any combination of hours
11 earned as a student or apprentice in a cosmetology establishment ~~or an~~
12 ~~electrology establishment~~ licensed or approved by the jurisdiction in
13 which it was located and hour-equivalents granted for recent work
14 experience, with hour-equivalents recognized as follows:

15 (i) Each month of full-time practice as an instructor within the
16 five years immediately preceding application shall be valued as one
17 hundred hour-equivalents toward an instructor's license ~~or a cosmetology~~
18 ~~license and one hundred hour-equivalents toward an esthetician's license;~~

19 (ii) Each month of full-time practice as a cosmetologist within the
20 five years immediately preceding application shall be valued as one
21 hundred hour-equivalents toward a cosmetology license ~~and one hundred~~
22 ~~hour-equivalents toward an esthetician's license;~~

23 (iii) Each month of full-time practice as an esthetician within the
24 five years immediately preceding application shall be valued as one
25 hundred hour-equivalents toward an esthetician's license;

26 (iv) Each month of full-time practice as an esthetics instructor
27 within the five years immediately preceding application shall be valued
28 as one hundred hour-equivalents toward an esthetics instructor's license;
29 and

30 (v) Each month of full-time practice as an electrologist within the
31 five years immediately preceding application shall be valued as one

1 hundred hour-equivalents toward an electrologist's license.

2 (2) An applicant who is a military spouse may apply for a temporary
3 license as provided in section 38-129.01 and may practice under the
4 temporary license without supervision.

5 Sec. 20. Section 38-1069, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 ~~38-1069 Registration shall be required before any person may act as~~
8 ~~a guest artist, guest body artist, cosmetician, student, apprentice, or~~
9 ~~student instructor, and no person shall assume any title indicative of~~
10 ~~any of such areas of activity without first being registered or licensed~~
11 ~~by the department under the Cosmetology, Electrology, Esthetics, Nail~~
12 ~~Technology, and Body Art Practice Act. A license as a temporary~~
13 practitioner shall be required before any person may act as a temporary
14 practitioner, and no person shall assume any title indicative of being a
15 temporary practitioner without first being so licensed by the department
16 under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body
17 Art Practice Act act.

18 Sec. 21. Section 38-1070, Revised Statutes Supplement, 2017, is
19 amended to read:

20 38-1070 An individual making application for ~~registration or a~~
21 temporary license, other than a temporary license issued as provided in
22 section 38-129.01, shall meet, and present to the department evidence of
23 meeting, the requirements for the specific type of ~~registration or~~
24 license applied for.

25 Sec. 22. Section 38-1073, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 38-1073 An applicant for licensure as a temporary practitioner shall
28 show evidence that his or her completed application for regular licensure
29 has been accepted by the department, that he or she has not failed any
30 portion of the licensure examination, and that he or she has been
31 accepted for work in a licensed cosmetology establishment under the

1 supervision of a licensed practitioner. ~~An individual registered as a~~
2 ~~temporary practitioner on December 1, 2008, shall be deemed to be~~
3 ~~licensed as a temporary practitioner under the Cosmetology, Electrology,~~
4 ~~Esthetics, Nail Technology, and Body Art Practice Act on such date. The~~
5 ~~temporary practitioner may continue to practice under such registration~~
6 ~~as a temporary license until it would have expired under its terms.~~

7 Sec. 23. Section 38-1074, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 38-1074 (1) ~~Registration and temporary licensure shall be granted~~
10 ~~for a set period of time and cannot be renewed.~~

11 (2) ~~Registration as a guest artist shall expire two years following the~~
12 ~~initial date of issuance.~~

13 (3) ~~Registration as a cosmetician shall expire two years following the~~
14 ~~initial date of issuance.~~

15 (4) ~~Registration as a student, apprentice, or student instructor shall~~
16 ~~expire upon successful completion of the licensing examination or~~
17 ~~termination of enrollment in a school of cosmetology, a school of~~
18 ~~esthetics, or an apprentice salon.~~

19 (5) ~~Licensure as a temporary practitioner shall expire eight weeks~~
20 ~~following the date of issuance or upon receipt of examination results,~~
21 ~~whichever occurs first. The , except that the license of a temporary~~
22 ~~practitioner who fails to take the first scheduled examination shall~~
23 ~~expire immediately unless the department finds that the temporary~~
24 ~~practitioner was unable to attend the examination due to an emergency or~~
25 ~~other valid circumstances, in which case the department may extend the~~
26 ~~license an additional eight weeks or until receipt of the examination~~
27 ~~results, whichever occurs first. No license may be extended in such~~
28 ~~manner more than once.~~

29 Sec. 24. Section 38-1075, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 38-1075 The Cosmetology, Electrology, Esthetics, Nail Technology,

1 and Body Art Practice Act does not apply to or restrict the activities of
2 the following:

3 (1) Any person holding a current license or certificate issued
4 pursuant to the Uniform Credentialing Act when engaged in the usual and
5 customary practice of his or her profession or occupation;

6 (2) Any person engaging solely in earlobe piercing;

7 (3) Any person engaging solely in natural hair braiding;

8 (4) Any person when engaged in domestic or charitable
9 administration;

10 (5) Any person performing any of the practices of cosmetology or
11 nail technology solely for theatrical presentations or other
12 entertainment functions;

13 (6) Any person practicing cosmetology, electrology, esthetics, or
14 nail technology within the confines of a hospital, nursing home, massage
15 therapy establishment, funeral establishment, or other similar
16 establishment or facility licensed or otherwise regulated by the
17 department, except that no unlicensed or ~~unregistered~~ person may accept
18 compensation for such practice;

19 (7) Any person providing services during a bona fide emergency;

20 (8) Any retail or wholesale establishment or any person engaged in
21 the sale of cosmetics, nail technology products, or other beauty products
22 when the products are applied by the customer or when the application of
23 the products is in direct connection with the sale or attempted sale of
24 such products at retail;

25 (9) Any person when engaged in nonvocational training;

26 (10) A person demonstrating on behalf of a manufacturer or
27 distributor any cosmetology, nail technology, electrolysis, or body art
28 equipment or supplies if such demonstration is performed without charge;

29 (11) Any person or licensee engaged in the practice or teaching of
30 manicuring; ~~and~~

31 (12) Any person or licensee engaged in the practice of airbrush

1 tanning or temporary, nonpermanent airbrush tattooing; ~~and~~ -

2 (13) Any person applying cosmetics.

3 Sec. 25. Section 38-1086, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 38-1086 In order to maintain its license in good standing, each
6 salon shall operate in accordance with the following requirements:

7 (1) The salon shall at all times comply with all applicable
8 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
9 and Body Art Practice Act and all rules and regulations adopted and
10 promulgated under such act;

11 (2) The salon owner or his or her agent shall notify the department
12 at least thirty days prior to any change of ownership, name, or address,
13 and within one week if a salon is permanently closed, except in emergency
14 circumstances as determined by the department;

15 (3) No salon shall permit any unlicensed ~~or unregistered~~ person to
16 perform any of the practices of cosmetology within its confines or
17 employment;

18 (4) The salon shall display a name upon, over, or near the entrance
19 door distinguishing it as a salon;

20 (5) The salon shall permit any duly authorized agent of the
21 department to conduct an operation inspection or investigation at any
22 time during the normal operating hours of the salon, without prior
23 notice, and the owner and manager shall assist the inspector by providing
24 access to all areas of the salon, all personnel, and all records
25 requested by the inspector;

26 (6) The salon shall display in a conspicuous place the following
27 records:

28 (a) The current license or certificate of consideration to operate a
29 salon;

30 (b) The current licenses ~~or registrations~~ of all persons employed by
31 or working in the salon; and

- 1 (c) The rating sheet from the most recent operation inspection;
- 2 (7) At no time shall a salon employ more employees than permitted by
- 3 the square footage requirements of the Cosmetology, Electrology,
- 4 Esthetics, Nail Technology, and Body Art Practice Act; and
- 5 (8) The salon shall not knowingly permit its employees ~~or clients~~ to
- 6 use ~~or~~ , consume, ~~serve,~~ or in any manner possess or distribute
- 7 intoxicating beverages ~~or controlled substances~~ upon its premises.

8 Sec. 26. Section 38-1097, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 38-1097 In order to be licensed as a school of cosmetology by the
11 department, an applicant shall meet and present to the department
12 evidence of meeting the following requirements:

- 13 (1) The proposed school shall be a fixed permanent structure or part
- 14 of one;
- 15 (2) The proposed school shall have a contracted enrollment of at
- 16 least ~~ten~~ ~~fifteen~~ full-time or part-time students;
- 17 (3) The proposed school shall contain at least three thousand five
- 18 hundred square feet of floor space and facilities, staff, apparatus, and
- 19 equipment appropriate to its projected enrollment in accordance with the
- 20 standards established by rule and regulation; and
- 21 (4) The proposed school shall not have the same entrance as or
- 22 direct access to a cosmetology salon, esthetics salon, or nail technology
- 23 salon.

24 A school of cosmetology is not required to be licensed as a school
25 of esthetics in order to provide an esthetics training program or as a
26 school of nail technology in order to provide a nail technology training
27 program.

28 Sec. 27. Section 38-1099, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 38-1099 Along with the application the applicant for a license to
31 operate a school of cosmetology or school of esthetics shall submit:

1 (1) A detailed floor plan or blueprint of the proposed school
2 building sufficient to show compliance with the relevant rules and
3 regulations;

4 (2) Evidence of minimal property damage, personal injury, and
5 liability insurance coverage for the proposed school;

6 (3) A copy of the curriculum to be taught for all courses;

7 (4) A copy of the school catalog, handbook, or policies ~~rules~~ and
8 the student contract; and

9 (5) A list of the names and credentials of all licensees to be
10 employed by the school. ~~and the name and qualifications of the school~~
11 ~~manager;~~

12 ~~(6) Complete student entrance notifications and contracts for all~~
13 ~~persons proposed as students or student instructors, which shall be~~
14 ~~submitted fifteen days prior to opening;~~

15 ~~(7) A completed cosmetology education or esthetics education~~
16 ~~evaluation scale, as applicable; and~~

17 ~~(8) A schedule of proposed hours of operation and class and course~~
18 ~~scheduling.~~

19 Sec. 28. Section 38-10,100, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 38-10,100 In order to be licensed as a school of esthetics by the
22 department, an applicant shall meet and present to the department
23 evidence of meeting the following requirements:

24 (1) The proposed school shall be a fixed permanent structure or part
25 of one;

26 (2) The proposed school shall have a contracted enrollment of at
27 least four full-time or part-time ~~but not more than six~~ students for each
28 ~~licensed esthetics instructor on the staff of the proposed school;~~

29 (3) The proposed school shall contain at least one thousand square
30 feet of floor space and facilities, staff, apparatus, and equipment
31 appropriate to its projected enrollment in accordance with the standards

1 established by rule and regulation; and

2 (4) The proposed school shall not have the same entrance as or
3 direct access to a cosmetology salon, an esthetics salon, or a nail
4 technology salon.

5 Sec. 29. Section 38-10,102, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 38-10,102 In order to maintain its license in good standing, each
8 school of cosmetology or school of esthetics shall operate in accordance
9 with the following requirements:

10 (1) The school shall at all times comply with all applicable
11 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
12 and Body Art Practice Act and all rules and regulations adopted and
13 promulgated under such act;

14 (2) The school owner or owners or the authorized agent thereof shall
15 notify the department at least thirty days prior to any change of
16 ownership, name, or address, and at least sixty days prior to closure,
17 except in emergency circumstances as determined by the department;

18 (3) No school shall permit anyone other than a student, student
19 instructor, or instructor, ~~or guest artist~~ to perform any of the
20 practices of cosmetology or esthetics within its confines or employ,
21 except that such restriction shall not prevent a school from inviting
22 guest educators ~~teachers~~ who are not licensed ~~or registered~~ to provide
23 education ~~lectures~~ to students or student instructors if the guest
24 educator ~~lecturer~~ does not perform any of the practices of cosmetology or
25 esthetics;

26 (4) The school shall display a name upon or near the entrance door
27 designating it as a school of cosmetology or a school of esthetics;

28 (5) The school shall display in a conspicuous place within the
29 clinic area a sign reading: All services in this school are performed by
30 students who are training in cosmetology or esthetics, as applicable. A
31 notice to such effect shall also appear in all advertising conducted by

1 the school for its clinic services;

2 (6) The school shall permit any duly authorized agent of the
3 department to conduct an operation inspection or investigation at any
4 time during the normal operating hours of the school without prior
5 notice, and the owner or manager shall assist the inspector by providing
6 access to all areas of the school, all personnel, and all records
7 requested by the inspector;

8 (7) The school shall display in a conspicuous place the following
9 records:

10 (a) The current license to operate a school of cosmetology or school
11 of esthetics;

12 (b) The current licenses ~~or registrations~~ of all persons licensed
13 under the act, except students, employed by or working in the school; and

14 (c) The rating sheet from the most recent accreditation inspection;

15 (8) At no time shall a school enroll more students than permitted by
16 the act or the rules and regulations adopted and promulgated under the
17 act;

18 (9) The school shall not knowingly permit its students, employees,
19 or clients to use, consume, serve, or in any other manner possess or
20 distribute intoxicating beverages or controlled substances upon its
21 premises;

22 (10) No instructor or student instructor shall perform, and no
23 school shall permit such person to perform, any of the practices of
24 cosmetology or esthetics on the public in a school of cosmetology or
25 school of esthetics other than that part of the practical work which
26 pertains directly to the teaching of practical subjects to students or
27 student instructors and in no instance shall complete cosmetology or
28 esthetics services be provided for a client unless done in a
29 demonstration class of theoretical or practical studies;

30 (11) The school shall maintain space, staff, library, teaching
31 apparatus, and equipment as established by rules and regulations adopted

1 and promulgated under the act;

2 (12) The school shall keep a daily record of the attendance and
3 clinical performance of each student and student instructor;

4 (13) The school shall maintain regular class and instructor hours
5 and shall require the minimum curriculum;

6 (14) The school shall establish and maintain criteria and standards
7 for student grading, evaluation, and performance and shall award a
8 certificate or diploma to a student only upon completing a full course of
9 study in compliance with such standards, except that no student shall
10 receive such certificate or diploma until he or she has satisfied or made
11 an agreement with the school to satisfy all outstanding financial
12 obligations to the school;

13 (15) The school shall maintain on file the enrollment of each
14 student;

15 (16) The school shall maintain a report indicating the students and
16 student instructors enrolled, the hours ~~and credits~~ earned, the
17 instructors employed, the hours of operation, and such other pertinent
18 information as required by the department. ~~No hours or credits shall be~~
19 ~~allowed for any student unless such student is duly registered and the~~
20 ~~hours and credits are reported by the school;~~ and

21 (17) The school shall print and provide to each student a copy of
22 the school rules, which shall not be inconsistent with the Cosmetology,
23 Electrology, Esthetics, Nail Technology, and Body Art Practice Act, the
24 Uniform Credentialing Act, or the rules and regulations adopted and
25 promulgated under either act and which shall include policies of the
26 school with respect to tuition, reimbursement, conduct, attendance,
27 grading, earning of hours ~~and credits~~, demerits, penalties, dismissal,
28 graduation requirements, dress, and other information sufficient to
29 advise the student of the standards he or she will be required to
30 maintain. The department may review any school's rules to determine their
31 consistency with the intent and content of the Cosmetology, Electrology,

1 Esthetics, Nail Technology, and Body Art Practice Act and the rules and
2 regulations and may overturn any school rules found not to be in accord.

3 Sec. 30. Section 38-10,103, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 38-10,103 In order to maintain a school or apprentice salon license
6 in good standing, each school or apprentice salon shall operate in
7 accordance with the following:

8 (1) Every person accepted for enrollment as a standard student or
9 apprentice shall show evidence that he or she attained the age of
10 seventeen years on or before the date of his or her enrollment in a
11 school of cosmetology, a school of esthetics, or an apprentice salon, has
12 completed the equivalent of a high school education, has been accepted
13 for enrollment at a school of cosmetology, a school of esthetics, or an
14 apprentice salon, and has not undertaken any training in cosmetology or
15 esthetics without being enrolled as a student or apprentice;

16 (2)(a) Every person accepted for enrollment as a special study
17 student or apprentice shall show evidence that he or she:

18 (i) Has attained the age of seventeen years on or before the date of
19 enrollment in a school of cosmetology, a school of esthetics, or an
20 apprentice salon;

21 (ii) Has completed the tenth grade;

22 (iii) Has been accepted for enrollment at a school of cosmetology, a
23 school of esthetics, or an apprentice salon; and

24 (iv) Is actively continuing his or her formal high school education
25 on a full-time basis as determined by the department.

26 (b) An applicant for enrollment as a special study student or
27 apprentice shall not have undertaken any training in cosmetology or
28 esthetics without being enrolled as a student or apprentice.

29 (c) Special study students shall be limited to attending a school of
30 cosmetology, a school of esthetics, or an apprentice salon for no more
31 than eight hours per week during the school year;

1 (3) Every person accepted for enrollment as a student instructor
2 shall show evidence of current licensure as a cosmetologist or
3 esthetician in Nebraska and completion of formal education equivalent to
4 a United States high school education; and

5 (4) No school of cosmetology, school of esthetics, or apprentice
6 salon shall accept an individual for enrollment who does not provide
7 evidence of meeting the age and education requirements. ~~Proof of age~~
8 ~~shall consist of a birth certificate, baptismal certificate, or other~~
9 ~~equivalent document as determined by the department. Evidence of~~
10 ~~education shall consist of a high school diploma, general educational~~
11 ~~development certificate, transcript from a college or university, or~~
12 ~~equivalent document as determined by the department.~~

13 Sec. 31. Section 38-10,104, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 38-10,104 In order to maintain its license in good standing, each
16 school of cosmetology or school of esthetics shall operate in accordance
17 with the following requirements:

18 (1) All persons accepted for enrollment as students shall meet the
19 qualifications established in section 38-10,103;

20 (2) The school shall, at all times the school is in operation, have
21 at least one instructor in the school for each twenty students or
22 fraction thereof enrolled in the school, except ~~(a)~~ that freshman and
23 advanced students shall be taught by different instructors in separate
24 classes ~~and (b) as provided in section 38-10,100;~~

25 (3) The school shall not permit any student to render clinical
26 services on members of the public with or without fees until such student
27 has satisfactorily completed the freshman curriculum, except that the
28 board may establish guidelines by which it may approve such practices as
29 part of the freshman curriculum;

30 (4) No school shall pay direct compensation to any of its students.
31 Student instructors may be paid as determined by the school;

1 (5) All students and student instructors shall be under the
2 supervision of an instructor at all times, except that students shall be
3 under the direct supervision of an instructor or student instructor at
4 all times when cosmetology or esthetics services are being taught or
5 performed and student instructors may independently supervise students
6 after successfully completing at least one-half of the required
7 instructor program;

8 ~~(6) Students shall be classified for reporting purposes as follows:~~

9 ~~(a) A full-time student shall mean one who regularly trains at least~~
10 ~~eight hours a day during the normal school week, including normal excused~~
11 ~~absences as defined in the school rules; and~~

12 ~~(b) A part-time student shall mean any student not classified as a~~
13 ~~full-time student;~~

14 ~~(7) Students no longer attending the school shall be classified for~~
15 ~~reporting purposes as follows:~~

16 ~~(a) A graduate shall mean a student who has completed his or her~~
17 ~~hours and credits, has satisfied all school requirements, and has been~~
18 ~~granted a certificate or diploma by the school;~~

19 ~~(b) A transfer shall mean a student who has transferred to another~~
20 ~~school in Nebraska or in another state;~~

21 ~~(c) A temporary drop shall mean a student who has stopped attending~~
22 ~~school for a period of less than three months and has given no indication~~
23 ~~that he or she intends to drop permanently; and~~

24 ~~(d) A permanent drop shall mean a student who has stopped attending~~
25 ~~school for a period of three months or more or one who has stopped~~
26 ~~attending for a shorter time but has informed the school in writing of~~
27 ~~his or her intention to drop permanently;~~

28 ~~(8) Once a student has been classified as a permanent drop, the~~
29 ~~school shall keep a record of his or her hours and credits for a period~~
30 ~~of two years from the last date upon which the student attended school;~~

31 ~~(6) (9) No student shall be permitted by the school to train or work~~

1 in a school in any manner for more than ten hours a day; and
2 ~~(7) (10)~~ The school shall not credit a student or student instructor
3 with hours ~~and credits~~ except when such hours ~~and credits~~ were earned in
4 the study or practice of cosmetology, ~~or esthetics, nail technology, or~~
5 barbering in accordance with the required curriculum. Hours ~~and credits~~
6 shall be credited on a daily basis. Once credited, hours ~~or credits~~
7 cannot be removed or disallowed except by the department upon a finding
8 that the hours ~~or credits~~ have been wrongfully allowed.

9 Sec. 32. Section 38-10,105, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 38-10,105 A student may transfer from one school of cosmetology ~~in~~
12 ~~Nebraska~~ to another school at any time without penalty if all tuition
13 obligations to the school from which the student is transferring have
14 been honored and if the student secures a letter from the school from
15 which he or she is transferring stating that the student has not left any
16 unfulfilled tuition obligations and stating the number of hours ~~and~~
17 ~~credits~~ earned by the student at such school, including any hours ~~and~~
18 ~~credits~~ the student transferred into that school, and the dates of
19 attendance of the student at that school. The student may not begin
20 training at the new school until such conditions have been fulfilled. The
21 school to which the student is transferring shall be entitled to receive
22 from the student's previous school, upon request, ~~credit books and any~~
23 ~~and~~ all records pertaining to the student.

24 Sec. 33. Section 38-10,107, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 38-10,107 (1) Barbers licensed in the State of Nebraska attending a
27 school of cosmetology may be given credit of one thousand hours of
28 training applied toward the course hours required for graduation Any
29 ~~person holding a current barbering license issued by the appropriate~~
30 ~~authority in Nebraska shall be entitled to waive one thousand hours upon~~
31 ~~enrolling in a complete course of cosmetology training in a school of~~

1 ~~cosmetology. The school shall determine, based upon the knowledge and~~
2 ~~experience of the student, which one thousand hours of training shall be~~
3 ~~waived for the student. The school shall determine, based upon the~~
4 ~~knowledge and experience of the student, how many credits to waive and~~
5 ~~which credits are to be waived for the student, except that no fewer than~~
6 ~~five hundred credits and no more than one thousand credits may be waived~~
7 ~~for any such student. No hours shall be waived for a licensed barber~~
8 ~~enrolling in an esthetician training course or program.~~

9 (2) Cosmetologists licensed in the State of Nebraska attending a
10 barber school or college may be given credit of one thousand hours of
11 training applied toward the course hours required for graduation.

12 Sec. 34. Section 38-10,108, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 38-10,108 No school of cosmetology shall at any time enroll more
15 than three ~~two~~ student instructors for each full-time instructor actively
16 working in and employed by the school.

17 Sec. 35. Section 38-10,112, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 38-10,112 (1) The owner of each school of cosmetology or school of
20 esthetics shall have full responsibility for ensuring that the school is
21 operated in compliance with all applicable laws and rules and regulations
22 and shall be liable for any and all violations occurring in the school.

23 (2) Each school of cosmetology or school of esthetics shall be
24 operated by a manager ~~who shall hold an active instructor's license and~~
25 who shall be present on the premises of the school no less than thirty-
26 five hours each week. ~~Each manager of a school of esthetics shall hold an~~
27 ~~active esthetics instructor's license and shall be present on the~~
28 ~~premises of the school no less than thirty-five hours each week. The~~
29 manager may have responsibility for the daily operation of the school or
30 satellite classroom ~~and, if so, shall share with the owner liability for~~
31 ~~any and all violations occurring in the school or satellite classroom.~~

1 Sec. 36. Section 38-10,120, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-10,120 ~~(1) Practice outside a licensed cosmetology establishment~~
4 ~~shall be permitted in the following circumstances:~~

5 ~~(a) A registered cosmetician may apply cosmetics or esthetics~~
6 ~~products within the scope of such activity permitted a cosmetician in the~~
7 ~~home of a client or customer; and~~

8 (1) ~~(b)~~ A licensed cosmetology salon or esthetics salon may employ
9 licensed cosmetologists and estheticians, according to the licensed
10 activities of the salon, to perform home services by meeting the
11 following requirements:

12 (a) ~~(i)~~ In order to be issued a home services permit by the
13 department, an applicant shall hold a current active salon license; and

14 (b) ~~(ii)~~ Any person seeking a home services permit shall submit a
15 complete application at least ten days before the proposed date for
16 beginning home services. Along with the application the applicant shall
17 submit evidence of liability insurance or bonding.

18 (2) The department shall issue a home services permit to each
19 applicant meeting the requirements set forth in this section.

20 Sec. 37. In order to be licensed as a mobile cosmetology salon by
21 the department, an applicant shall meet, and present to the department
22 evidence of meeting, the following requirements:

23 (1) The proposed salon is a self-contained, self-supporting,
24 enclosed mobile unit;

25 (2)(a)(i) The mobile unit has a global positioning system tracking
26 device that enables the department to track the location of the salon
27 over the Internet;

28 (ii) The device is on board the mobile unit and functioning at all
29 times the salon is in operation or open for business; and

30 (iii) The owner of the salon provides the department with all
31 information necessary to track the salon over the Internet; or

1 (b) The owner of the salon submits to the department, in a manner
2 specified by the department, a weekly itinerary showing the dates, exact
3 locations, and times that cosmetology services are scheduled to be
4 provided. The owner shall submit the itinerary not less than seven
5 calendar days prior to the beginning of the service described in the
6 itinerary and shall submit to the department any changes in the itinerary
7 not less than twenty-four hours prior to the change. A salon shall follow
8 the itinerary in providing service and notify the department of any
9 changes;

10 (3) The salon has insurance coverage which meets the requirements of
11 the department for the mobile unit;

12 (4) The salon is clearly identified as such to the public by a sign;

13 (5) The salon complies with the sanitary requirements of the
14 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
15 Practice Act;

16 (6) The entrance into the proposed salon used by the general public
17 provides safe access by the public;

18 (7) The proposed salon has at least one hundred fifty square feet of
19 floor space. If more than one practitioner is to be employed in the salon
20 at the same time, the salon shall contain an additional space of at least
21 fifty square feet for each additional practitioner; and

22 (8) The proposed salon includes a functional sink and toilet
23 facilities and maintains an adequate supply of clean water and wastewater
24 storage capacity.

25 Sec. 38. Any person seeking a license to operate a mobile
26 cosmetology salon shall submit a completed application to the department,
27 and along with the application, the applicant shall submit a detailed
28 floor plan or blueprint of the proposed salon sufficient to demonstrate
29 compliance with the requirements of section 37 of this act.

30 Sec. 39. Each application for a license to operate a mobile
31 cosmetology salon shall be reviewed by the department for compliance with

1 the requirements of the Cosmetology, Electrology, Esthetics, Nail
2 Technology, and Body Art Practice Act. If an application is denied, the
3 applicant shall be informed in writing of the grounds for denial, and
4 such denial shall not prejudice future applications by the applicant. If
5 an application is approved, the department shall issue the applicant a
6 certificate of consideration to operate a mobile cosmetology salon
7 pending an operation inspection. The department shall conduct an
8 operation inspection of each salon issued a certificate of consideration
9 within six months after the issuance of such certificate. A salon which
10 passes the inspection shall be issued a permanent license. A salon which
11 fails the inspection shall submit within fifteen days evidence of
12 corrective action taken to improve those aspects of operation found
13 deficient. If evidence is not submitted within fifteen days or if after a
14 second inspection the salon does not receive a satisfactory rating, it
15 shall immediately relinquish its certificate of consideration and cease
16 operation.

17 Sec. 40. In order to maintain its license in good standing, each
18 mobile cosmetology salon shall operate in accordance with the following
19 requirements:

20 (1) The salon shall at all times comply with all applicable
21 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
22 and Body Art Practice Act and all rules and regulations adopted and
23 promulgated under the act;

24 (2) The salon owner or his or her agent shall notify the department
25 of any change of ownership, name, or office address and if a salon is
26 permanently closed;

27 (3) No salon shall permit any unlicensed person to perform any of
28 the practices of cosmetology within its confines or employment;

29 (4) The salon shall display a name upon, over, or near the entrance
30 door distinguishing it as a salon;

31 (5) The salon shall permit any duly authorized agent of the

1 department to conduct an operation inspection or investigation at any
2 time during the normal operating hours of the salon, without prior
3 notice, and the owner and manager shall assist the inspector by providing
4 access to all areas of the salon, all personnel, and all records
5 requested by the inspector;

6 (6) The salon shall display in a conspicuous place the following
7 records:

8 (a) The current license or certificate of consideration to operate a
9 salon;

10 (b) The current licenses of all persons licensed under the act who
11 are employed by or working in the salon; and

12 (c) The rating sheet from the most recent operation inspection;

13 (7) At no time shall a salon employ more employees than permitted by
14 the square footage requirements of the Cosmetology, Electrology,
15 Esthetics, Nail Technology, and Body Art Practice Act;

16 (8) No cosmetology services may be performed in a salon while the
17 salon is moving. The salon must be safely and legally parked in a legal
18 parking space at all times while clients are present inside the salon. A
19 salon shall not park or conduct business within three hundred feet of
20 another licensed cosmetology establishment. The department is not
21 responsible for monitoring for enforcement of this subdivision but may
22 discipline a license for a reported and verified violation;

23 (9) The owner of the salon shall maintain a permanent business
24 address at which correspondence from the department may be received and
25 records of appointments, license numbers, and vehicle identification
26 numbers shall be kept for each salon being operated by the owner. The
27 owner shall make such records available for verification and inspection
28 by the department; and

29 (10) The salon shall not knowingly permit its employees or clients
30 to use, consume, serve, or in any manner possess or distribute
31 intoxicating beverages or controlled substances upon its premises.

1 Sec. 41. The procedure for renewing a mobile cosmetology salon
2 license shall be in accordance with section 38-143, except that in
3 addition to all other requirements, the salon shall submit evidence of
4 minimal property damage, bodily injury, and liability insurance coverage
5 for the salon and evidence of coverage which meets the requirements of
6 the Motor Vehicle Registration Act for the salon.

7 Sec. 42. The license of a mobile cosmetology salon that has been
8 revoked or expired for any reason shall not be reinstated. An original
9 application for licensure shall be submitted and approved before such
10 salon may reopen for business.

11 Sec. 43. Each mobile cosmetology salon license issued shall be in
12 effect solely for the owner or owners and motor home named thereon and
13 shall expire automatically upon any change of ownership or motor home. An
14 original application for licensure shall be submitted and approved before
15 such salon may reopen for business.

16 Sec. 44. The owner of each mobile cosmetology salon shall have full
17 responsibility for ensuring that the salon is operated in compliance with
18 all applicable laws, rules, and regulations and shall be liable for any
19 and all violations occurring in the salon.

20 Sec. 45. Section 38-10,128, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 38-10,128 In order to be licensed as a nail technician or nail
23 technology instructor by examination, an individual shall meet, and
24 present to the department evidence of meeting, the following
25 requirements:

26 (1) He or she has attained the age of seventeen years on or before
27 the beginning date of the examination for which application is being
28 made;

29 (2) He or she has completed formal education equivalent to a United
30 States high school education;

31 (3) He or she possesses sufficient ability to read the English

1 language to permit the applicant to practice in a safe manner, as
2 evidenced by successful completion of the written examination; and

3 (4) He or she has graduated from a school of cosmetology or nail
4 technology school providing a nail technology program. Evidence of
5 graduation shall include documentation of the total number of hours of
6 training earned and a diploma or certificate from the school to the
7 effect that the applicant has complied with the following:

8 (a) For licensure as a nail technician, the program of studies shall
9 consist of ~~a minimum of not less than one hundred fifty hours and not~~
10 ~~more than three hundred hours, as set by the board;~~ and

11 (b) For licensure as a nail technology instructor, the program of
12 studies shall consist of ~~a minimum of not less than one hundred fifty~~
13 ~~hours and not more than three hundred hours, as set by the board,~~ beyond
14 the program of studies required for licensure as a nail technician and
15 the individual shall be currently licensed as a nail technician in
16 Nebraska as evidenced by possession of a valid Nebraska nail technician
17 license.

18 The department shall grant a license in the appropriate category to
19 any person meeting the requirements specified in this section.

20 Sec. 46. Section 38-10,129, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 38-10,129 No application for any type of licensure ~~or registration~~
23 shall be considered complete unless all information requested on the
24 application form has been supplied, all seals and signatures required
25 have been obtained, and all supporting and documentary evidence has been
26 received by the department.

27 Sec. 47. Section 38-10,131, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 38-10,131 (1) Examinations approved by the board may be national
30 standardized examinations, but in all cases the examinations shall be
31 related to the knowledge and skills necessary to perform the practices

1 being examined and shall be related to the curricula required to be
2 taught in nail technology programs.

3 ~~(2) At least two examinations shall be given annually.~~

4 (2) ~~(3)~~ In order to successfully complete the examination, an
5 applicant shall obtain an average grade of seventy-five percent on the
6 written examination.

7 Sec. 48. Section 38-10,132, Revised Statutes Supplement, 2017, is
8 amended to read:

9 38-10,132 (1) The department may grant a license based on licensure
10 in another jurisdiction to a nail technician or nail technology
11 instructor who presents proof of the following:

12 (a) He or she has attained the age of seventeen years;

13 (b) He or she has completed formal education equivalent to a United
14 States high school education;

15 (c) He or she is currently licensed as a nail technician or its
16 equivalent or as a nail technology instructor or its equivalent in
17 another jurisdiction and he or she has never been disciplined or had his
18 or her license revoked;

19 (d) For licensure as a nail technician, evidence of completion ~~:(i)~~
20 ~~Completion~~ of a program of nail technician studies consisting of a
21 ~~minimum of not less than one hundred fifty hours and not more than three~~
22 ~~hundred hours, as set by the board,~~ and successful passage of a written
23 examination. If a written examination was not required for licensure in
24 another jurisdiction, the applicant must take the Nebraska written
25 examination. Each month of full-time practice as a nail technician within
26 the five years immediately preceding application shall be valued as
27 equivalent to one hundred hours toward a nail technician license; and ~~or~~

28 ~~(ii) At least twelve months of practice as a nail technician~~
29 ~~following issuance of such license in another jurisdiction; and~~

30 (e) For licensure as a nail technology instructor, evidence of
31 completion ~~:(i) Completion~~ of a program of studies consisting of a

1 ~~minimum of not less than one hundred fifty hours and not more than three~~
2 ~~hundred hours, as set by the board,~~ beyond the program of studies
3 required for licensure in another jurisdiction as a nail technician,
4 successful passage of a written examination, and current licensure as a
5 nail technician in Nebraska as evidenced by possessing a valid Nebraska
6 nail technician license. If a written examination was not required for
7 licensure as a nail technology instructor, the applicant must take the
8 Nebraska written examination. Each month of full-time practice as a nail
9 technology instructor within the five years immediately preceding
10 application shall be valued as equivalent to one hundred hours toward a
11 nail technology instructor license. ; ~~or~~

12 ~~(ii) At least twelve months of practice as a nail technology~~
13 ~~instructor following issuance of such license in another jurisdiction.~~

14 (2) An applicant who is a military spouse may apply for a temporary
15 license as provided in section 38-129.01.

16 Sec. 49. Section 38-10,133, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 38-10,133 Every person holding a license ~~or registration~~ in nail
19 technology issued by the department under the Cosmetology, Electrology,
20 Esthetics, Nail Technology, and Body Art Practice Act shall display it in
21 a conspicuous place in his or her principal place of employment, and
22 every nail technology establishment shall so display the then current
23 licenses ~~and registrations~~ of all practitioners there employed.

24 Sec. 50. Section 38-10,135, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 38-10,135 An applicant for licensure as a nail technology temporary
27 practitioner shall show evidence that his or her completed application
28 for regular licensure has been accepted by the department, that he or she
29 has not failed any portion of the licensure examination, and that he or
30 she has been accepted for work in a licensed nail technology or
31 cosmetology establishment under the supervision of a licensed nail

1 technician or licensed cosmetologist. ~~An individual registered as a~~
2 ~~temporary practitioner on December 1, 2008, shall be deemed to be~~
3 ~~licensed as a temporary practitioner under the Cosmetology, Electrology,~~
4 ~~Esthetics, Nail Technology, and Body Art Practice Act on such date. The~~
5 ~~temporary practitioner may continue to practice under such registration~~
6 ~~as a license until it would have expired under its terms.~~

7 Sec. 51. Section 38-10,142, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 38-10,142 In order to maintain its license in good standing, each
10 nail technology salon shall operate in accordance with the following
11 requirements:

12 (1) The nail technology salon shall at all times comply with all
13 applicable provisions of the Cosmetology, Electrology, Esthetics, Nail
14 Technology, and Body Art Practice Act and all rules and regulations
15 adopted and promulgated under such act;

16 (2) The nail technology salon owner or his or her agent shall notify
17 the department at least thirty days prior to any change of ownership,
18 name, or address, and at least one week prior to closure, except in
19 emergency circumstances as determined by the department;

20 (3) No nail technology salon shall permit any unlicensed ~~or~~
21 ~~unregistered~~ person to perform any of the practices of nail technology
22 within its confines or employment;

23 (4) The nail technology salon shall display a name upon, over, or
24 near the entrance door distinguishing it as a nail technology salon;

25 (5) The nail technology salon shall permit any duly authorized agent
26 of the department to conduct an operation inspection or investigation at
27 any time during the normal operating hours of the nail technology salon,
28 without prior notice, and the owner and manager shall assist the
29 inspector by providing access to all areas of the nail technology salon,
30 all personnel, and all records requested by the inspector;

31 (6) The nail technology salon shall display in a conspicuous place

1 the following records:

2 (a) The current license or certificate of consideration to operate a
3 nail technology salon;

4 (b) The current licenses ~~or registrations~~ of all persons licensed
5 under the act who are employed by or working in the nail technology
6 salon; and

7 (c) The rating sheet from the most recent operation inspection;

8 (7) At no time shall a nail technology salon employ more employees
9 than permitted by the square footage requirements of the act; and

10 (8) The nail technology salon shall not knowingly permit its
11 employees ~~or clients~~ to use or , consume, ~~serve, or in any manner possess~~
12 ~~or distribute~~ intoxicating beverages ~~or controlled substances~~ upon its
13 premises.

14 Sec. 52. Section 38-10,147, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 38-10,147 In order to be licensed as a nail technology school by the
17 department, an applicant shall meet, and present to the department
18 evidence of meeting, the following requirements:

19 (1) The proposed school shall be a fixed, permanent structure or
20 part of one;

21 (2) The proposed school shall have a contracted enrollment of
22 students;

23 (3) The proposed school shall contain at least five hundred square
24 feet of floor space and facilities, staff, apparatus, and equipment
25 appropriate to its projected enrollment in accordance with the standards
26 established by rule and regulation; and

27 (4) The proposed school shall not have the same entrance as or
28 direct access to a cosmetology salon or nail technology salon.

29 Sec. 53. Section 38-10,150, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 38-10,150 Along with the application, an applicant for a license to

1 operate a nail technology school shall submit:

2 (1) A detailed floor plan or blueprint of the proposed school
3 building sufficient to show compliance with the relevant rules and
4 regulations;

5 (2) Evidence of minimal property damage, personal injury, and
6 liability insurance coverage for the proposed school;

7 (3) A copy of the curriculum to be taught for all courses;

8 (4) A copy of the school catalog, handbook, or policies ~~rules~~ and
9 the student contract; and

10 (5) A list of the names and credentials of all persons licensed ~~or~~
11 ~~registered~~ under the Cosmetology, Electrology, Esthetics, Nail
12 Technology, and Body Art Practice Act to be employed by the school, and
13 ~~the name and qualifications of the school manager;~~

14 ~~(6) A completed nail technology education evaluation scale;~~

15 ~~(7) A schedule of proposed hours of operation and class and course~~
16 ~~scheduling; and~~

17 ~~(8) Any additional information the department may require.~~

18 A nail technology school's license shall be valid only for the
19 location named in the application. When a school desires to change
20 locations, it shall comply with section 38-10,158.

21 Sec. 54. Section 38-10,152, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 38-10,152 In order to maintain its license in good standing, each
24 nail technology school shall operate in accordance with the following
25 requirements:

26 (1) The school shall at all times comply with all applicable
27 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
28 and Body Art Practice Act and all rules and regulations adopted and
29 promulgated under such act;

30 (2) The school owner or owners or their authorized agent shall
31 notify the department at least thirty days prior to any change of

1 ownership, name, or address, and at least sixty days prior to closure,
2 except in emergency circumstances as determined by the department;

3 (3) No school shall permit anyone other than a nail technology
4 student, nail technology student instructor, or nail technology
5 instructor to perform any of the practices of nail technology within its
6 confines or employment employ, except that such restriction shall not
7 prevent a school from inviting guest educators who are not licensed to
8 provide education to students or student instructors if the guest
9 educator does not perform any of the practices of nail technology
10 ~~teachers who are not licensed or registered to provide lectures to~~
11 ~~students or student instructors if the guest lecturer does not perform~~
12 ~~any of the practices of nail technology;~~

13 (4) The school shall display a name upon or near the entrance door
14 designating it as a nail technology school;

15 (5) The school shall display in a conspicuous place within the
16 clinic area a sign reading: All services in this school are performed by
17 students who are training in nail technology. A notice to such effect
18 shall also appear in all advertising conducted by the school for its
19 clinic services;

20 (6) The school shall permit any duly authorized agent of the
21 department to conduct an operation inspection or investigation at any
22 time during the normal operating hours of the school without prior
23 notice, and the owner or manager shall assist the inspector by providing
24 access to all areas of the school, all personnel, and all records
25 requested by the inspector;

26 (7) The school shall display in a conspicuous place the following
27 records:

28 (a) The current license to operate a nail technology school;

29 (b) The current licenses ~~or registrations~~ of all persons licensed ~~or~~
30 ~~registered~~ under the act, except students, employed by or working in the
31 school; and

1 (c) The rating sheet from the most recent accreditation inspection;
2 (8) At no time shall a school enroll more students than permitted by
3 the act or the rules and regulations adopted and promulgated under the
4 act;

5 (9) The school shall not knowingly permit its students, employees,
6 or clients to use, consume, serve, or in any other manner possess or
7 distribute intoxicating beverages or controlled substances upon its
8 premises;

9 (10) No nail technology instructor or nail technology student
10 instructor shall perform, and no school shall permit such person to
11 perform, any of the practices of nail technology on the public in a nail
12 technology school other than that part of the practical work which
13 pertains directly to the teaching of practical subjects to nail
14 technology students or nail technology student instructors, and complete
15 nail technology services shall not be provided for a client unless done
16 in a demonstration class of theoretical or practical studies;

17 (11) The school shall maintain space, staff, library, teaching
18 apparatus, and equipment as established by rules and regulations adopted
19 and promulgated under the act;

20 (12) The school shall keep a daily record of the attendance and
21 clinical performance of each student and student instructor;

22 (13) The school shall maintain regular class and instructor hours
23 and shall require the minimum curriculum;

24 (14) The school shall establish and maintain criteria and standards
25 for student grading, evaluation, and performance and shall award a
26 certificate or diploma to a student only upon completing a full course of
27 study in compliance with such standards, except that no student shall
28 receive such certificate or diploma until he or she has satisfied or made
29 an agreement with the school to satisfy all outstanding financial
30 obligations to the school;

31 (15) The school shall maintain on file the enrollment of each

1 student; and

2 (16) The school shall print and provide to each student a copy of
3 the school rules, which shall not be inconsistent with the act or with
4 the rules and regulations adopted and promulgated under such act and
5 which shall include policies of the school with respect to tuition,
6 reimbursement, conduct, attendance, grading, earning of hours and
7 credits, demerits, penalties, dismissal, graduation requirements, dress,
8 and other information sufficient to advise the student of the standards
9 he or she will be required to maintain. The department may review any
10 school's rules to determine their consistency with the intent and content
11 of the act and the rules and regulations and may overturn any school
12 rules found not to be in accord.

13 Sec. 55. Section 38-10,153, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 38-10,153 In order to maintain its license in good standing, each
16 nail technology school shall operate in accordance with the following
17 requirements:

18 (1) Every person accepted for enrollment as a standard student shall
19 meet the following qualifications:

20 (a) He or she has attained the age of seventeen years on or before
21 the date of his or her enrollment in a nail technology school;

22 (b) He or she has completed the equivalent of a high school
23 education; and

24 (c) He or she has not undertaken any training in nail technology in
25 this state after January 1, 2000, without being enrolled as a nail
26 technology student;

27 (2)(a) Every person accepted for enrollment as a special study nail
28 technology student shall meet the following requirements:

29 (i) He or she has attained the age of seventeen years on or before
30 the date of enrollment in a nail technology school;

31 (ii) He or she has completed the tenth grade; and

1 (iii) He or she is actively continuing his or her formal high school
2 education on a full-time basis as determined by the department.

3 (b) Special study nail technology students shall be limited to
4 attending a nail technology school for no more than eight hours per week
5 during the school year;

6 ~~(3) Proof of age shall consist of a birth certificate, baptismal~~
7 ~~certificate, or other equivalent document as determined by the~~
8 ~~department. Evidence of education shall consist of a high school diploma,~~
9 ~~general educational development certificate, transcript from a college or~~
10 ~~university, or equivalent document as determined by the department. No~~
11 nail technology school shall accept an individual for enrollment who does
12 not provide evidence of meeting the age and education requirements ~~for~~
13 ~~registration;~~

14 (4) Every person accepted for enrollment as a nail technology
15 student instructor shall show evidence of current licensure as a nail
16 technician in Nebraska and completion of formal education equivalent to a
17 United States high school education;

18 (5) The school shall, at all times the school is in operation, have
19 at least one nail technology instructor in the school for each twenty
20 students or fraction thereof enrolled in the school;

21 (6) The school shall not permit any nail technology student to
22 render clinical services on members of the public with or without fees
23 until such student has satisfactorily completed the beginning curriculum,
24 except that the department may establish guidelines by which it may
25 approve such practices as part of the beginning curriculum;

26 (7) No school shall pay direct compensation to any of its nail
27 technology students. Nail technology student instructors may be paid as
28 determined by the school;

29 (8) All nail technology students and nail technology student
30 instructors shall be under the supervision of a cosmetology instructor,
31 nail technology instructor, or nail technology student instructor at all

1 times when nail technology services are being taught or performed;

2 (9) No student shall be permitted by the school to train or work in
3 a school in any manner for more than ten hours a day; and

4 (10) The school shall not credit a nail technology student or nail
5 technology student instructor with hours except when such hours were
6 earned in the study or practice of nail technology in accordance with the
7 required curriculum. Hours shall be credited on a daily basis. Once
8 credited, hours cannot be removed or disallowed except by the department
9 upon a finding that the hours have been wrongfully allowed.

10 Sec. 56. Section 38-10,154, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 38-10,154 Nail technology students or nail technology student
13 instructors may transfer from one nail technology school ~~in Nebraska~~ to
14 another school at any time.

15 The school to which the student is transferring shall be entitled to
16 receive from the student's previous school, upon request, any and all
17 records pertaining to the student after all financial obligations of the
18 student to the previous school are met.

19 Sec. 57. Section 38-10,156, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 38-10,156 No nail technology school shall at any time enroll more
22 than two ~~one~~ nail technology student instructors ~~instructor~~ for each
23 full-time nail technology instructor or cosmetology instructor actively
24 working in and employed by the school.

25 Sec. 58. In order to be licensed as a mobile nail technology salon
26 by the department, an applicant shall meet, and present to the department
27 evidence of meeting, the following requirements:

28 (1) The proposed salon is a self-contained, self-supporting,
29 enclosed mobile unit;

30 (2)(a)(i) The mobile unit has a global positioning system tracking
31 device that enables the department to track the location of the salon

1 over the Internet;

2 (ii) The device is on board the mobile unit and functioning at all
3 times the salon is in operation or open for business; and

4 (iii) The owner of the salon provides the department with all
5 information necessary to track the salon over the Internet; or

6 (b) The owner of the salon submits to the department, in a manner
7 specified by the department, a weekly itinerary showing the dates, exact
8 locations, and times that nail technology services are scheduled to be
9 provided. The owner shall submit the itinerary not less than seven
10 calendar days prior to the beginning of the service described in the
11 itinerary and shall submit to the department any changes in the itinerary
12 not less than twenty-four hours prior to the change. A salon shall follow
13 the itinerary in providing service and notify the department of any
14 changes;

15 (3) The salon has insurance coverage which meets the requirements of
16 the department for the mobile unit;

17 (4) The salon is clearly identified as such to the public by a sign;

18 (5) The salon complies with the sanitary requirements of the
19 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art
20 Practice Act;

21 (6) The entrance into the proposed salon used by the general public
22 provides safe access by the public;

23 (7) The proposed salon has at least one hundred fifty square feet of
24 floor space. If more than one practitioner is to be employed in the salon
25 at the same time, the salon shall contain an additional space of at least
26 fifty square feet for each additional practitioner; and

27 (8) The proposed salon includes a functional sink and toilet
28 facilities and maintains an adequate supply of clean water and wastewater
29 storage capacity.

30 Sec. 59. Any person seeking a license to operate a mobile nail
31 technology salon shall submit a completed application to the department,

1 and along with the application, the applicant shall submit a detailed
2 floor plan or blueprint of the proposed salon sufficient to demonstrate
3 compliance with the requirements of section 58 of this act.

4 Sec. 60. Each application for a license to operate a mobile nail
5 technology salon shall be reviewed by the department for compliance with
6 the requirements of the Cosmetology, Electrology, Esthetics, Nail
7 Technology, and Body Art Practice Act. If an application is denied, the
8 applicant shall be informed in writing of the grounds for denial, and
9 such denial shall not prejudice future applications by the applicant. If
10 an application is approved, the department shall issue the applicant a
11 certificate of consideration to operate a mobile nail technology salon
12 pending an operation inspection. The department shall conduct an
13 operation inspection of each salon issued a certificate of consideration
14 within six months after the issuance of such certificate. A salon which
15 passes the inspection shall be issued a permanent license. A salon which
16 fails the inspection shall submit within fifteen days evidence of
17 corrective action taken to improve those aspects of operation found
18 deficient. If evidence is not submitted within fifteen days or if after a
19 second inspection the salon does not receive a satisfactory rating, it
20 shall immediately relinquish its certificate of consideration and cease
21 operation.

22 Sec. 61. In order to maintain its license in good standing, each
23 mobile nail technology salon shall operate in accordance with the
24 following requirements:

25 (1) The salon shall at all times comply with all applicable
26 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
27 and Body Art Practice Act and all rules and regulations adopted and
28 promulgated under the act;

29 (2) The salon owner or his or her agent shall notify the department
30 of any change of ownership, name, or office address and if a salon is
31 permanently closed;

1 (3) No salon shall permit any unlicensed or unregistered person to
2 perform any of the practices of nail technology within its confines or
3 employment;

4 (4) The salon shall display a name upon, over, or near the entrance
5 door distinguishing it as a salon;

6 (5) The salon shall permit any duly authorized agent of the
7 department to conduct an operation inspection or investigation at any
8 time during the normal operating hours of the salon, without prior
9 notice, and the owner and manager shall assist the inspector by providing
10 access to all areas of the salon, all personnel, and all records
11 requested by the inspector;

12 (6) The salon shall display in a conspicuous place the following
13 records:

14 (a) The current license or certificate of consideration to operate a
15 salon;

16 (b) The current licenses of all persons licensed under the act who
17 are employed by or working in the salon; and

18 (c) The rating sheet from the most recent operation inspection;

19 (7) At no time shall a salon employ more employees than permitted by
20 the square footage requirements of the Cosmetology, Electrology,
21 Esthetics, Nail Technology, and Body Art Practice Act;

22 (8) No nail technology services may be performed in a salon while
23 the salon is moving. The salon must be safely and legally parked in a
24 legal parking space at all times while clients are present inside the
25 salon. A salon shall not park or conduct business within three hundred
26 feet of another licensed cosmetology establishment. The department is not
27 responsible for monitoring for enforcement of this subdivision but may
28 discipline a license for a reported and verified violation;

29 (9) The owner of the salon shall maintain a permanent business
30 address at which correspondence from the department may be received and
31 records of appointments, license numbers, and vehicle identification

1 numbers shall be kept for each salon being operated by the owner. The
2 owner shall make such records available for verification and inspection
3 by the department; and

4 (10) The salon shall not knowingly permit its employees or clients
5 to use, consume, serve, or in any manner possess or distribute
6 intoxicating beverages or controlled substances upon its premises.

7 Sec. 62. The procedure for renewing a mobile nail technology salon
8 license shall be in accordance with section 38-143, except that in
9 addition to all other requirements, the salon shall submit evidence of
10 minimal property damage, bodily injury, and liability insurance coverage
11 for the salon and evidence of coverage which meets the requirements of
12 the Motor Vehicle Registration Act for the salon.

13 Sec. 63. The license of a mobile nail technology salon that has
14 been revoked or expired for any reason shall not be reinstated. An
15 original application for licensure shall be submitted and approved before
16 such salon may reopen for business.

17 Sec. 64. Each mobile nail technology salon license issued shall be
18 in effect solely for the owner or owners and motor home named thereon and
19 shall expire automatically upon any change of ownership or motor home. An
20 original application for licensure shall be submitted and approved before
21 such salon may reopen for business.

22 Sec. 65. The owner of each mobile nail technology salon shall have
23 full responsibility for ensuring that the salon is operated in compliance
24 with all applicable laws, rules, and regulations and shall be liable for
25 any and all violations occurring in the salon.

26 Sec. 66. Section 38-10,171, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 38-10,171 Each of the following may be considered an act of
29 unprofessional conduct when committed by a person licensed ~~or~~ registered
30 under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body
31 Art Practice Act:

1 (1) Performing any of the practices regulated under the act for
2 which an individual is not licensed ~~or registered~~ or operating an
3 establishment or facility without the appropriate license;

4 (2) Obstructing, interfering, or failing to cooperate with an
5 inspection or investigation conducted by an authorized representative of
6 the department when acting in accordance with the act;

7 (3) Failing to report to the department a suspected violation of the
8 act;

9 (4) Aiding and abetting an individual to practice any of the
10 practices regulated under the act for which he or she is not licensed ~~or~~
11 registered;

12 (5) Engaging in any of the practices regulated under the act for
13 compensation in an unauthorized location;

14 (6) Engaging in the practice of any healing art or profession for
15 which a license is required without holding such a license;

16 (7) Enrolling a student or an apprentice without obtaining the
17 appropriate documents prior to enrollment;

18 (8) Knowingly falsifying any student or apprentice record or report;

19 (9) Initiating or continuing home services to a client who does not
20 meet the criteria established in the act;

21 (10) Knowingly issuing a certificate of completion or diploma to a
22 student or an apprentice who has not completed all requirements for the
23 issuance of such document;

24 (11) Failing, by a school of cosmetology, a nail technology school,
25 a school of esthetics, or an apprentice salon, to follow its published
26 rules;

27 (12) Violating, by a school of cosmetology, nail technology school,
28 or school of esthetics, any federal or state law involving the operation
29 of a vocational school or violating any federal or state law involving
30 participation in any federal or state loan or grant program;

31 (13) Knowingly permitting any person under supervision to violate

1 any law, rule, or regulation or knowingly permitting any establishment or
2 facility under supervision to operate in violation of any law, rule, or
3 regulation;

4 (14) Receiving two unsatisfactory inspection reports within any
5 sixty-day period;

6 (15) Engaging in any of the practices regulated under the act while
7 afflicted with any active case of a serious contagious disease,
8 infection, or infestation, as determined by the department, or in any
9 other circumstances when such practice might be harmful to the health or
10 safety of clients;

11 (16) Violating any rule or regulation relating to the practice of
12 body art; and

13 (17) Performing body art on or to any person under eighteen years of
14 age (a) without the prior written consent of the parent or court-
15 appointed guardian of such person, (b) without the presence of such
16 parent or guardian during the procedure, or (c) without retaining a copy
17 of such consent for a period of five years.

18 Sec. 67. Section 38-2801, Revised Statutes Supplement, 2017, is
19 amended to read:

20 38-2801 Sections 38-2801 to 38-28,107 and sections 70 to 72 of this
21 act and the Nebraska Drug Product Selection Act shall be known and may be
22 cited as the Pharmacy Practice Act.

23 Sec. 68. Section 38-2802, Revised Statutes Supplement, 2017, is
24 amended to read:

25 38-2802 For purposes of the Pharmacy Practice Act and elsewhere in
26 the Uniform Credentialing Act, unless the context otherwise requires, the
27 definitions found in sections 38-2803 to 38-2848 and sections 70 to 72 of
28 this act apply.

29 Sec. 69. Section 38-2833, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 38-2833 Pharmacist in charge means a pharmacist who is designated on

1 a pharmacy license or a remote dispensing pharmacy license or designated
2 by a hospital as being responsible for the practice of pharmacy in the
3 pharmacy for which a pharmacy license or a remote dispensing pharmacy
4 license is issued or in a hospital pharmacy and who works within the
5 physical confines of such pharmacy or hospital pharmacy, except that the
6 pharmacist in charge is not required to work within the physical confines
7 of a remote dispensing pharmacy unless otherwise required by law.

8 Sec. 70. Remote dispensing has the same meaning as in section 95 of
9 this act.

10 Sec. 71. Remote dispensing pharmacy has the same meaning as in
11 section 96 of this act.

12 Sec. 72. Supervising pharmacy has the same meaning as in section 97
13 of this act.

14 Sec. 73. Section 38-2847, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 38-2847 (1) Verification means the confirmation by a supervising
17 pharmacist of the accuracy and completeness of the acts, tasks, or
18 functions undertaken by a pharmacy technician to assist the pharmacist in
19 the practice of pharmacy.

20 (2) Verification shall occur by a pharmacist on duty in the
21 facility, except that verification may occur by means of a real-time
22 audiovisual communication system if (a) a pharmacy technician performs
23 authorized activities or functions to assist a pharmacist and the
24 prescribed drugs or devices will be administered to persons who are
25 patients or residents of a facility by a credentialed individual
26 authorized to administer medications or (b) a pharmacy technician is
27 engaged in remote dispensing in compliance with section 98 of this act -
28 ~~verification may occur by means of a real-time audiovisual communication~~
29 ~~system.~~

30 Sec. 74. Section 38-2870, Revised Statutes Supplement, 2017, is
31 amended to read:

1 38-2870 (1) All medical orders shall be written, oral, or electronic
2 and shall be valid for the period stated in the medical order, except
3 that (a) if the medical order is for a controlled substance listed in
4 section 28-405, such period shall not exceed six months from the date of
5 issuance at which time the medical order shall expire and (b) if the
6 medical order is for a drug or device which is not a controlled substance
7 listed in section 28-405 or is an order issued by a practitioner for
8 pharmaceutical care, such period shall not exceed twelve months from the
9 date of issuance at which time the medical order shall expire.

10 (2) Prescription drugs or devices may only be dispensed by a
11 pharmacist or pharmacist intern pursuant to a medical order, by an
12 individual dispensing pursuant to a delegated dispensing permit, or as
13 otherwise provided in section 38-2850. Notwithstanding any other
14 provision of law to the contrary, a pharmacist or a pharmacist intern may
15 dispense drugs or devices pursuant to a medical order or an individual
16 dispensing pursuant to a delegated dispensing permit may dispense drugs
17 or devices pursuant to a medical order. The Pharmacy Practice Act shall
18 not be construed to require any pharmacist or pharmacist intern to
19 dispense, compound, administer, or prepare for administration any drug or
20 device pursuant to any medical order. A pharmacist or pharmacist intern
21 shall retain the professional right to refuse to dispense.

22 (3) Except as otherwise provided in sections 28-414 and 28-414.01, a
23 practitioner or the practitioner's agent may transmit a medical order to
24 a pharmacist or pharmacist intern and an authorized refill to a
25 pharmacist, pharmacist intern, or pharmacy technician by the following
26 means: (a) In writing, (b) orally, (c) by facsimile transmission of a
27 written medical order or electronic transmission of a medical order
28 signed by the practitioner, or (d) by facsimile transmission of a written
29 medical order or electronic transmission of a medical order which is not
30 signed by the practitioner. Such an unsigned medical order shall be
31 verified with the practitioner.

1 (4)(a) Except as otherwise provided in sections 28-414 and
2 28-414.01, any medical order transmitted by facsimile or electronic
3 transmission shall:

4 (i) Be transmitted by the practitioner or the practitioner's agent
5 directly to a pharmacist or pharmacist intern in a licensed pharmacy of
6 the patient's choice; and any authorized refill transmitted by facsimile
7 or electronic transmission shall be transmitted by the practitioner or
8 the practitioner's agent directly to a pharmacist, pharmacist intern, or
9 pharmacy technician. No intervening person shall be permitted access to
10 the medical order to alter such order or the licensed pharmacy chosen by
11 the patient. Such medical order may be transmitted through a third-party
12 intermediary who shall facilitate the transmission of the order from the
13 practitioner or practitioner's agent to the pharmacy;

14 (ii) Identify the transmitter's telephone number or other suitable
15 information necessary to contact the transmitter for written or oral
16 confirmation, the time and date of the transmission, the identity of the
17 pharmacy intended to receive the transmission, and other information as
18 required by law; and

19 (iii) Serve as the original medical order if all other requirements
20 of this subsection are satisfied.

21 (b) Medical orders transmitted by electronic transmission shall be
22 signed by the practitioner either with an electronic signature for legend
23 drugs which are not controlled substances or a digital signature for
24 legend drugs which are controlled substances.

25 (5) The pharmacist shall exercise professional judgment regarding
26 the accuracy, validity, and authenticity of any medical order transmitted
27 by facsimile or electronic transmission.

28 (6) The quantity of drug indicated in a medical order for a resident
29 of a long-term care facility shall be sixty days unless otherwise limited
30 by the prescribing practitioner.

31 Sec. 75. Section 38-2891, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 38-2891 (1) A pharmacy technician shall only perform tasks which do
3 not require the professional judgment of a pharmacist and which are
4 subject to verification to assist a pharmacist in the practice of
5 pharmacy.

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

8 (a) Receiving oral medical orders from a practitioner or his or her
9 agent except as otherwise provided in subsection (3) of section 38-2870;

10 (b) Providing patient counseling;

11 (c) Performing any evaluation or necessary clarification of a
12 medical order or performing any functions other than strictly clerical
13 functions involving a medical order;

14 (d) Supervising or verifying the tasks and functions of pharmacy
15 technicians;

16 (e) Interpreting or evaluating the data contained in a patient's
17 record maintained pursuant to section 38-2869;

18 (f) Releasing any confidential information maintained by the
19 pharmacy;

20 (g) Performing any professional consultations; and

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

23 (3) The director shall, with the recommendation of the board, waive
24 any of the limitations in subsection (2) of this section for purposes of
25 a scientific study of the role of pharmacy technicians approved by the
26 board. Such study shall be based upon providing improved patient care or
27 enhanced pharmaceutical care. Any such waiver shall state the length of
28 the study and shall require that all study data and results be made
29 available to the board upon the completion of the study. Nothing in this
30 subsection requires the board to approve any study proposed under this
31 subsection.

1 Sec. 76. Section 38-2892, Revised Statutes Supplement, 2017, is
2 amended to read:

3 38-2892 (1) The pharmacist in charge of a pharmacy, remote
4 dispensing pharmacy, or hospital pharmacy employing pharmacy technicians
5 shall be responsible for the supervision and performance of the pharmacy
6 technicians.

7 (2) Except as otherwise provided in the Automated Medication Systems
8 Act, the supervision of pharmacy technicians at a pharmacy shall be
9 performed by the pharmacist who is on duty in the facility with the
10 pharmacy technicians or located in pharmacies that utilize a real-time,
11 online data base and have a pharmacist in all pharmacies. The supervision
12 of pharmacy technicians at a remote dispensing pharmacy or hospital
13 pharmacy shall be performed by the pharmacist assigned by the pharmacist
14 in charge to be responsible for the supervision and verification of the
15 activities of the pharmacy technicians.

16 Sec. 77. Section 38-28,106, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 38-28,106 An employee or agent of a prescribing practitioner may
19 communicate a prescription, chart order, or refill authorization issued
20 by the prescribing practitioner to a pharmacist or a pharmacist intern
21 except for an emergency oral authorization for a controlled substance
22 listed in Schedule II of section 28-405. An employee or agent of a
23 prescribing practitioner may communicate a refill authorization issued by
24 the prescribing practitioner to a pharmacy technician.

25 Sec. 78. Section 38-3208, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 38-3208 The Respiratory Care Practice Act shall not prohibit:

28 (1) The practice of respiratory care which is an integral part of
29 the program of study by students enrolled in approved respiratory care
30 education programs;

31 (2) The gratuitous care, including the practice of respiratory care,

1 of the ill by a friend or member of the family or by a person who is not
2 licensed to practice respiratory care if such person does not represent
3 himself or herself as a respiratory care practitioner;

4 (3) The practice of respiratory care by nurses, physicians,
5 physician assistants, physical therapists, or any other professional
6 required to be licensed under the Uniform Credentialing Act when such
7 practice is within the scope of practice for which that person is
8 licensed to practice in this state;

9 (4) The practice of any respiratory care practitioner of this state
10 or any other state or territory while employed by the federal government
11 or any bureau or division thereof while in the discharge of his or her
12 official duties;

13 (5) Techniques defined as pulmonary function testing and the
14 administration of aerosol and inhalant medications to the
15 cardiorespiratory system as it relates to pulmonary function technology
16 administered by a registered pulmonary function technologist credentialed
17 by the National Board for Respiratory Care or a certified pulmonary
18 function technologist credentialed by the National Board for Respiratory
19 Care; or

20 (6) The performance of oxygen therapy or the initiation of
21 noninvasive positive pressure ventilation by a registered
22 polysomnographic technologist relating to the study of sleep disorders if
23 such procedures are performed or initiated under the supervision of a
24 licensed physician at a facility accredited by the American Academy of
25 Sleep Medicine.

26 Sec. 79. Section 71-202.01, Revised Statutes Cumulative Supplement,
27 2016, is amended to read:

28 71-202.01 For purposes of the Barber Act, unless the context
29 otherwise requires:

30 (1) Barber shall mean any person who engages in the practice of any
31 act of barbering;

1 (2) Barber pole shall mean a cylinder or pole with alternating
2 stripes of red, white, and blue or any combination of them which run
3 diagonally along the length of the cylinder or pole;

4 (3) Barber shop shall mean (a) an establishment or place of business
5 properly licensed as required by the act where one or more persons
6 properly licensed are engaged in the practice of barbering or (b) a
7 mobile barber shop. Barber shop but shall not include barber schools or
8 colleges;

9 (4) Barber school or college shall mean an establishment properly
10 licensed and operated for the teaching and training of barber students;

11 (5) Board shall mean the Board of Barber Examiners;

12 (6) Manager shall mean a licensed barber having control of the
13 barber shop and of the persons working or employed therein;

14 (7) License shall mean a certificate of registration issued by the
15 board;

16 (8) Barber instructor shall mean a teacher of the barber trade as
17 provided in the act;

18 (9) Assistant barber instructor shall mean a teacher of the
19 barbering trade registered as an assistant barber instructor as required
20 by the act;

21 (10) Mobile barber shop shall mean a self-contained, self-
22 supporting, enclosed mobile unit licensed under the act as a mobile site
23 for the performance of the practice of barbering by persons licensed
24 under the act;

25 (11) (10) Registered or licensed barber shall mean a person who has
26 completed the requirements to receive a certificate as a barber and to
27 whom a certificate has been issued;

28 (12) (11) Secretary of the board shall mean the director appointed
29 by the board who shall keep a record of the proceedings of the board;

30 (13) (12) Student shall mean a person attending an approved,
31 licensed barber school or college, duly registered with the board as a

1 student engaged in learning and acquiring any and all of the practices of
2 barbering, and who, while learning, performs and assists any of the
3 practices of barbering in a barber school or college; and

4 (14) ~~(13)~~ Postsecondary barber school or college shall mean an
5 establishment properly licensed and operated for the teaching and
6 training of barber students who have successfully completed high school
7 or its equivalent as determined by successfully passing a general
8 educational development test prior to admittance.

9 Sec. 80. Section 71-203, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 71-203 The following persons are exempt from the Barber Act while in
12 the proper discharge of their professional or occupational duties: (1)
13 Persons authorized by the laws of this state to practice medicine and
14 surgery; (2) commissioned medical or surgical officers of the United
15 States military services; (3) registered or licensed practical nurses;
16 and (4) persons engaged in operating or employed in cosmetology
17 establishments ~~salons~~, except that nothing contained in this section
18 shall authorize a cosmetologist to perform barbering as defined in
19 section 71-202 in any licensed barber shop.

20 Sec. 81. Section 71-204, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 71-204 A person is qualified to receive a certificate of
23 registration to practice barbering (1) who has a diploma showing
24 graduation from high school or an equivalent education as determined by
25 passing a general education development test; (2) who is at least
26 seventeen years of age; (3) who has completed one ~~two~~ thousand eight ~~one~~
27 hundred hours of training in a barber school or college; (4) who has
28 graduated from a barber school or college approved by the Board of Barber
29 Examiners; and (5) who has passed an examination conducted by the Board
30 of Barber Examiners to determine his or her fitness to practice
31 barbering, ~~which examination shall be taken within two years after the~~

1 ~~date of entry into barbering school.~~

2 Sec. 82. Section 71-208, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

4 71-208 The Legislature finds that, through licensing of barber
5 schools, the Board of Barber Examiners approves barbering programs which
6 lead to a certificate or diploma in Nebraska. No barber school or college
7 shall be approved by the board unless (1)(a) a barber school or college
8 that operates as a postsecondary barber school or college requires, as a
9 prerequisite to admission, high school graduation or its equivalent as
10 determined by successfully passing a general educational development test
11 or (b) a barber school or college that does not operate as a
12 postsecondary barber school or college requires, as a prerequisite to
13 graduation from such school or college, high school graduation or its
14 equivalent as determined by successfully passing a general educational
15 development test, (2) as a prerequisite to graduation it requires a
16 course of instruction of not less than one ~~two~~ thousand eight ~~one~~ hundred
17 hours, to be completed in ~~a period of not less than one year,~~ of not more
18 than ten hours in any one working day, and (3) the barber school or
19 college meets the standards of the Barber Act and any rules and
20 regulations of the board. Such course of instruction shall include
21 scientific fundamentals for barbering, hygiene, massaging, sterilization,
22 haircutting, and shaving, except that when a barber school or college is
23 a part of a high school accredited by the State Board of Education or the
24 University of Nebraska, the Board of Barber Examiners shall provide in
25 its rules and regulations that credit in the barber school or college
26 shall be given for hours spent and courses pursued in the high school and
27 that credit shall be given for courses in barbering taken in high school
28 prior to formal enrollment in such barber school or college.

29 Sec. 83. Section 71-208.08, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 71-208.08 (1) Cosmetologists licensed in the State of Nebraska

1 attending a barber school or college ~~may of barbering shall~~ be given
2 credit of one thousand hours of training applied ~~credit~~ toward the course
3 hours required for graduation.

4 (2) Barbers licensed in the State of Nebraska attending a school of
5 cosmetology may be given credit of one thousand hours of training applied
6 toward the course hours required for graduation.

7 Sec. 84. In order to be licensed as a mobile barber shop by the
8 board, an applicant shall, in addition to the requirements of the Barber
9 Act, meet, and present to the board evidence of meeting, the following
10 requirements:

11 (1) The proposed barber shop is a self-contained, self-supporting,
12 enclosed mobile unit;

13 (2)(a)(i) The mobile unit has a global positioning system tracking
14 device that enables the board to track the location of the barber shop
15 over the Internet;

16 (ii) The device is on board the mobile unit and functioning at all
17 times the barber shop is in operation or open for business; and

18 (iii) The owner of the barber shop provides the board with all
19 information necessary to track the barber shop over the Internet; or

20 (b) The owner of the barber shop submits to the board, in a manner
21 specified by the board, a weekly itinerary showing the dates, exact
22 locations, and times that barbering services are scheduled to be
23 provided. The owner shall submit the itinerary not less than seven
24 calendar days prior to the beginning of the service described in the
25 itinerary and shall submit to the board any changes in the itinerary not
26 less than twenty-four hours prior to the change. A barber shop shall
27 follow the itinerary in providing service and notify the board of any
28 changes;

29 (3) The barber shop has insurance coverage which meets the
30 requirements of the department for the mobile unit;

31 (4) The barber shop is clearly identified as such to the public by a

1 sign;

2 (5) The barber shop complies with the sanitary requirements of the
3 Barber Act and the rules and regulations adopted and promulgated under
4 the act;

5 (6) The entrance into the proposed barber shop used by the general
6 public provides safe access by the public; and

7 (7) The proposed barber shop includes a functional sink and toilet
8 facilities and maintains an adequate supply of clean water and wastewater
9 storage capacity.

10 Sec. 85. Any person seeking a license to operate a mobile
11 barbershop shall submit a completed application to the board as provided
12 in section 71-219.02, and along with the application, the applicant shall
13 submit a detailed floor plan or blueprint of the proposed barber shop
14 sufficient to demonstrate compliance with the requirements of section 84
15 of this act.

16 Sec. 86. In addition to the requirements of the Barber Act, each
17 application for a license to operate a mobile barber shop shall be
18 reviewed by the board for compliance with the requirements of the Barber
19 Act. If an application is denied, the applicant shall be informed in
20 writing of the grounds for denial, and such denial shall not prejudice
21 future applications by the applicant. If an application is approved, the
22 board shall issue the applicant a certificate of consideration to operate
23 a mobile barber shop pending an operation inspection. The board shall
24 conduct an operation inspection of each barber shop issued a certificate
25 of consideration within six months after the issuance of such
26 certificate. A barber shop which passes the inspection shall be issued a
27 permanent license. A barber shop which fails the inspection shall submit
28 within fifteen days evidence of corrective action taken to improve those
29 aspects of operation found deficient. If evidence is not submitted within
30 fifteen days or if after a second inspection the barber shop does not
31 receive a satisfactory rating, it shall immediately relinquish its

1 certificate of consideration and cease operation.

2 Sec. 87. In order to maintain its license in good standing, each
3 mobile barber shop shall operate in accordance with the following
4 requirements:

5 (1) The barber shop shall at all times comply with all applicable
6 provisions of the Barber Act and all rules and regulations adopted and
7 promulgated under the act;

8 (2) The barber shop owner or his or her agent shall notify the board
9 of any change of ownership, name, or office address and if a barbershop
10 is permanently closed;

11 (3) No barber shop shall permit any unlicensed person to perform any
12 of the practices of barbering within its confines or employment;

13 (4) The barber shop shall display a name upon, over, or near the
14 entrance door distinguishing it as a barber shop;

15 (5) The barber shop shall permit any duly authorized agent of the
16 board to conduct an operation inspection or investigation at any time
17 during the normal operating hours of the barber shop, without prior
18 notice, and the owner and manager shall assist the inspector by providing
19 access to all areas of the barber shop, all personnel, and all records
20 requested by the inspector;

21 (6) The barber shop shall display in a conspicuous place the
22 following records:

23 (a) The current license or certificate of consideration to operate a
24 barber shop;

25 (b) The current licenses of all persons licensed under the act who
26 are employed by or working in the barber shop; and

27 (c) The rating sheet from the most recent operation inspection;

28 (7) No barbering practices may be performed in a barber shop while
29 the barbershop is moving. The barber shop must be safely and legally
30 parked in a legal parking space at all times while clients are present
31 inside the barber shop. A barber shop shall not park or conduct business

1 within three hundred feet of another licensed barber shop. The board is
2 not responsible for monitoring for enforcement of this subdivision but
3 may discipline a license for a reported and verified violation; and

4 (8) The owner of the barber shop shall maintain a permanent business
5 address at which correspondence from the board may be received and
6 records of appointments, license numbers, and vehicle identification
7 numbers shall be kept for each barber shop being operated by the owner.
8 The owner shall make such records available for verification and
9 inspection by the board.

10 Sec. 88. The license of a mobile barber shop that has been revoked
11 or expired for any reason shall not be reinstated. An original
12 application for licensure shall be submitted and approved before such
13 barber shop may reopen for business.

14 Sec. 89. Each mobile barber shop license issued shall be in effect
15 solely for the owner or owners and motor home named thereon and shall
16 expire automatically upon any change of ownership or motor home. An
17 original application for licensure shall be submitted and approved before
18 such barber shop may reopen for business.

19 Sec. 90. The owner of each mobile barber shop shall have full
20 responsibility for ensuring that the barber shop is operated in
21 compliance with all applicable laws, rules, and regulations and shall be
22 liable for any and all violations occurring in the barber shop.

23 Sec. 91. Section 71-224, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 71-224 Sections 71-201 to 71-248 and sections 84 to 90 of this act
26 shall be known and may be cited as the Barber Act.

27 Sec. 92. Section 71-401, Revised Statutes Supplement, 2017, is
28 amended to read:

29 71-401 Sections 71-401 to 71-475 and sections 95 to 98 of this act
30 shall be known and may be cited as the Health Care Facility Licensure
31 Act.

1 Sec. 93. Section 71-403, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 71-403 For purposes of the Health Care Facility Licensure Act,
4 unless the context otherwise requires, the definitions found in sections
5 71-404 to 71-431 and sections 95 to 97 of this act shall apply.

6 Sec. 94. Section 71-425, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 71-425 Pharmacy means a facility advertised as a pharmacy, drug
9 store, hospital pharmacy, dispensary, remote dispensing pharmacy, or any
10 combination of such titles where drugs or devices are dispensed as
11 defined in the Pharmacy Practice Act.

12 Sec. 95. Remote dispensing means dispensing that occurs using
13 remote supervision in compliance with section 98 of this act.

14 Sec. 96. Remote dispensing pharmacy means a pharmacy staffed by
15 certified pharmacy technicians in Nebraska in which remote dispensing may
16 occur.

17 Sec. 97. Supervising pharmacy means a pharmacy licensed and located
18 in Nebraska that owns and operates a licensed remote dispensing pharmacy.

19 Sec. 98. (1) A pharmacy shall obtain a remote dispensing pharmacy
20 license under the Health Care Facility Licensure Act prior to engaging in
21 remote dispensing. A pharmacy shall not be licensed as both a remote
22 dispensing pharmacy and a pharmacy. At the time of initial licensure as a
23 remote dispensing pharmacy, the remote dispensing pharmacy must be
24 located ten driving miles or more from the nearest pharmacy. The remote
25 dispensing pharmacy shall operate in accordance with this section.

26 (2) If the remote dispensing pharmacy employs a certified pharmacy
27 technician to dispense prescription drugs, remote dispensing shall occur
28 under remote supervision via a real-time audiovisual communication system
29 by a licensed pharmacist employed by a supervising pharmacy. The licensed
30 pharmacist must be licensed and located in Nebraska. If the real-time
31 audiovisual communication system between the remote dispensing pharmacy

1 and supervising pharmacy is not working, no remote dispensing can be
2 completed at the remote dispensing pharmacy until the real-time
3 audiovisual communication system is restored and working properly.

4 (3) The remote dispensing pharmacy must have the same pharmacist in
5 charge as the supervising pharmacy. The pharmacist in charge must ensure
6 that a pharmacist is onsite at the remote dispensing pharmacy at a
7 minimum of once each calendar month. The pharmacist in charge in the
8 supervising pharmacy may delegate tasks to another pharmacist who is
9 employed by the supervising pharmacy, such as supervision of the
10 certified pharmacy technician working remotely in the remote dispensing
11 pharmacy, oversight of inventory, patient counseling, and other duties as
12 assigned. The pharmacist supervising the certified pharmacy technician
13 remotely is responsible for the drug utilization review, the final
14 verification, and the supervision of the remote dispensing at the remote
15 dispensing pharmacy.

16 (4) In order for remote dispensing to occur in a remote dispensing
17 pharmacy:

18 (a) When a prescription is being dispensed to a patient or
19 caregiver, the supervising pharmacist must attempt to counsel on all new
20 prescriptions dispensed from the remote dispensing pharmacy; and

21 (b) The real-time audiovisual communication system must be working
22 properly.

23 Sec. 99. Section 71-2448, Revised Statutes Cumulative Supplement,
24 2016, is amended to read:

25 71-2448 A prescription medication distribution machine:

26 (1) Is subject to the requirements of section 71-2447 and, if it is
27 in a long-term care automated pharmacy, is subject to section 71-2451;
28 and

29 (2) May be operated only (a) in a licensed pharmacy where a
30 pharmacist dispenses medications to patients for self-administration
31 pursuant to a prescription, (b) in a remote dispensing pharmacy as

1 described in section 98 of this act, or (c) (b) in a long-term care
2 automated pharmacy subject to section 71-2451.

3 Sec. 100. Section 71-2483, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 71-2483 An employee or agent of a prescribing practitioner may
6 communicate a prescription, chart order, or refill authorization issued
7 by the prescribing practitioner to a pharmacist or a pharmacist intern
8 except for an emergency oral authorization for a controlled substance
9 listed in Schedule II of section 28-405. An employee or agent of a
10 prescribing practitioner may communicate a refill authorization issued by
11 the prescribing practitioner to a pharmacy technician.

12 Sec. 101. The State of Nebraska adopts the Physical Therapy
13 Licensure Compact in the form substantially as follows:

14 ARTICLE I

15 PURPOSE

16 a. The purpose of the Physical Therapy Licensure Compact is to
17 facilitate interstate practice of physical therapy with the goal of
18 improving public access to physical therapy services. The practice of
19 physical therapy occurs in the state where the patient or client is
20 located at the time of the patient or client encounter. The Compact
21 preserves the regulatory authority of states to protect public health and
22 safety through the current system of state licensure.

23 b. This Compact is designed to achieve the following objectives:

24 1. Increase public access to physical therapy services by providing
25 for the mutual recognition of other member state licenses;

26 2. Enhance the states' ability to protect the public's health and
27 safety;

28 3. Encourage the cooperation of member states in regulating
29 multistate physical therapy practice;

30 4. Support spouses of relocating military members;

31 5. Enhance the exchange of licensure, investigative, and

1 disciplinary information between member states; and

2 6. Allow a remote state to hold a provider of services with a
3 compact privilege in that state accountable to that state's practice
4 standards.

5 ARTICLE II

6 DEFINITIONS

7 As used in the Physical Therapy Licensure Compact, and except as
8 otherwise provided, the following definitions shall apply:

9 1. Active duty military means full-time duty status in the active
10 uniformed service of the United States, including members of the National
11 Guard and Reserve on active duty orders pursuant to 10 U.S.C. 1209 and
12 1211.

13 2. Adverse action means disciplinary action taken by a physical
14 therapy licensing board based upon misconduct, unacceptable performance,
15 or a combination of both.

16 3. Alternative program means a nondisciplinary monitoring or
17 practice remediation process approved by a physical therapy licensing
18 board. This includes, but is not limited to, substance abuse issues.

19 4. Commission means the Physical Therapy Compact Commission which is
20 the national administrative body whose membership consists of all states
21 that have enacted the Compact.

22 5. Compact privilege means the authorization granted by a remote
23 state to allow a licensee from another member state to practice as a
24 physical therapist or work as a physical therapist assistant in the
25 remote state under its laws and rules. The practice of physical therapy
26 occurs in the member state where the patient or client is located at the
27 time of the patient or client encounter.

28 6. Continuing competence means a requirement, as a condition of
29 license renewal, to provide evidence of participation in, or completion
30 of, educational and professional activities relevant to practice or area
31 of work.

1 7. Data system means a repository of information about licensees,
2 including examination, licensure, investigative, compact privilege, and
3 adverse action.

4 8. Encumbered license means a license that a physical therapy
5 licensing board has limited in any way.

6 9. Executive board means a group of directors elected or appointed
7 to act on behalf of, and within the powers granted to them by, the
8 Commission.

9 10. Home state means the member state that is the licensee's primary
10 state of residence.

11 11. Investigative information means information, records, and
12 documents received or generated by a physical therapy licensing board
13 pursuant to an investigation.

14 12. Jurisprudence requirement means the assessment of an
15 individual's knowledge of the laws and rules governing the practice of
16 physical therapy in a state.

17 13. Licensee means an individual who currently holds an
18 authorization from the state to practice as a physical therapist or to
19 work as a physical therapist assistant.

20 14. Member state means a state that has enacted the Compact.

21 15. Party state means any member state in which a licensee holds a
22 current license or compact privilege or is applying for a license or
23 compact privilege.

24 16. Physical therapist means an individual who is licensed by a
25 state to practice physical therapy.

26 17. Physical therapist assistant means an individual who is licensed
27 or certified by a state and who assists the physical therapist in
28 selected components of physical therapy.

29 18. Physical therapy, physical therapy practice, and the practice of
30 physical therapy mean the care and services provided by or under the
31 direction and supervision of a licensed physical therapist.

1 19. Physical therapy licensing board means the agency of a state
2 that is responsible for the licensing and regulation of physical
3 therapists and physical therapist assistants.

4 20. Remote state means a member state, other than the home state,
5 where a licensee is exercising or seeking to exercise the compact
6 privilege.

7 21. Rule means a regulation, principle, or directive promulgated by
8 the Commission that has the force of law.

9 22. State means any state, commonwealth, district, or territory of
10 the United States that regulates the practice of physical therapy.

11 ARTICLE III

12 STATE PARTICIPATION IN THE COMPACT

13 a. To participate in the Physical Therapy Licensure Compact, a state
14 must:

15 1. Participate fully in the Commission's data system, including
16 using the Commission's unique identifier as defined in rules;

17 2. Have a mechanism in place for receiving and investigating
18 complaints about licensees;

19 3. Notify the Commission, in compliance with the terms of the
20 Compact and rules, of any adverse action or the availability of
21 investigative information regarding a licensee;

22 4. Fully implement a criminal background check requirement, within a
23 timeframe established by rule, by receiving the results of the Federal
24 Bureau of Investigation record search on criminal background checks and
25 use the results in making licensure decisions in accordance with this
26 Article;

27 5. Comply with the rules of the Commission;

28 6. Utilize a recognized national examination as a requirement for
29 licensure pursuant to the rules of the Commission; and

30 7. Have continuing competence requirements as a condition for
31 license renewal.

1 b. Upon adoption of this statute, the member state shall have the
2 authority to obtain biometric-based information from each physical
3 therapy licensure applicant and submit this information to the Federal
4 Bureau of Investigation for a criminal background check in accordance
5 with 28 U.S.C. 534 and 34 U.S.C. 40316.

6 c. A member state shall grant the compact privilege to a licensee
7 holding a valid unencumbered license in another member state in
8 accordance with the terms of the Compact and rules.

9 d. Member states may charge a fee for granting a compact privilege.

10 ARTICLE IV

11 COMPACT PRIVILEGE

12 a. To exercise the compact privilege under the terms and provisions
13 of the Physical Therapy Licensure Compact, the licensee shall:

14 1. Hold a license in the home state;

15 2. Have no encumbrance on any state license;

16 3. Be eligible for a compact privilege in any member state in
17 accordance with paragraphs d, g, and h of this Article;

18 4. Have not had any adverse action against any license or compact
19 privilege within the previous two years;

20 5. Notify the Commission that the licensee is seeking the compact
21 privilege within a remote state;

22 6. Pay any applicable fees, including any state fee, for the compact
23 privilege;

24 7. Meet any jurisprudence requirements established by the remote
25 state in which the licensee is seeking a compact privilege; and

26 8. Report to the Commission adverse action taken by any nonmember
27 state within thirty days from the date the adverse action is taken.

28 b. The compact privilege is valid until the expiration date of the
29 home license. The licensee must comply with the requirements of paragraph
30 a of this Article to maintain the compact privilege in the remote state.

31 c. A licensee providing physical therapy in a remote state under the

1 compact privilege shall function within the laws and regulations of the
2 remote state.

3 d. A licensee providing physical therapy in a remote state is
4 subject to that state's regulatory authority. A remote state may, in
5 accordance with due process and that state's laws, remove a licensee's
6 compact privilege in the remote state for a specific period of time,
7 impose fines, or take any other necessary actions to protect the health
8 and safety of its citizens. The licensee is not eligible for a compact
9 privilege in any state until the specific time for removal has passed and
10 all fines are paid.

11 e. If a home state license is encumbered, the licensee shall lose
12 the compact privilege in any remote state until the following occur:

13 1. The home state license is no longer encumbered; and

14 2. Two years have elapsed from the date of the adverse action.

15 f. Once an encumbered license in the home state is restored to good
16 standing, the licensee must meet the requirements of paragraph a of this
17 Article to obtain a compact privilege in any remote state.

18 g. If a licensee's compact privilege in any remote state is removed,
19 the individual shall lose the compact privilege in any remote state until
20 the following occur:

21 1. The specific period of time for which the compact privilege was
22 removed has ended;

23 2. All fines have been paid; and

24 3. Two years have elapsed from the date of the adverse action.

25 h. Once the requirements of paragraph g of this Article have been
26 met, the licensee must meet the requirements in paragraph a of this
27 Article to obtain a compact privilege in a remote state.

28 ARTICLE V

29 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

30 A licensee who is active duty military or is the spouse of an
31 individual who is active duty military may designate one of the following

1 as the home state:

2 a. Home of record;

3 b. Permanent change of station (PCS); or

4 c. State of current residence if it is different than the PCS state
5 or home of record.

6 ARTICLE VI

7 ADVERSE ACTIONS

8 a. A home state shall have exclusive power to impose adverse action
9 against a license issued by the home state.

10 b. A home state may take adverse action based on the investigative
11 information of a remote state, so long as the home state follows its own
12 procedures for imposing adverse action.

13 c. Nothing in the Physical Therapy Licensure Compact shall override
14 a member state's decision that participation in an alternative program
15 may be used in lieu of adverse action and that such participation shall
16 remain nonpublic if required by the member state's laws. Member states
17 must require licensees who enter any alternative programs in lieu of
18 discipline to agree not to practice in any other member state during the
19 term of the alternative program without prior authorization from such
20 other member state.

21 d. Any member state may investigate actual or alleged violations of
22 the statutes and rules authorizing the practice of physical therapy in
23 any other member state in which a physical therapist or physical
24 therapist assistant holds a license or compact privilege.

25 e. A remote state shall have the authority to:

26 1. Take adverse actions as set forth in paragraph d of Article IV
27 against a licensee's compact privilege in the state;

28 2. Issue subpoenas for both hearings and investigations that require
29 the attendance and testimony of witnesses, and the production of
30 evidence. Subpoenas issued by a physical therapy licensing board in a
31 party state for the attendance and testimony of witnesses, or the

1 production of evidence from another party state, shall be enforced in the
2 latter state by any court of competent jurisdiction, according to the
3 practice and procedure of that court applicable to subpoenas issued in
4 proceedings pending before it. The issuing authority shall pay any
5 witness fees, travel expenses, mileage, and other fees required by the
6 service statutes of the state where the witnesses or evidence are
7 located; and

8 3. If otherwise permitted by state law, recover from the licensee
9 the costs of investigations and disposition of cases resulting from any
10 adverse action taken against that licensee.

11 f. Joint Investigations

12 1. In addition to the authority granted to a member state by its
13 respective physical therapy practice act or other applicable state law, a
14 member state may participate with other member states in joint
15 investigations of licensees.

16 2. Member states shall share any investigative, litigation, or
17 compliance materials in furtherance of any joint or individual
18 investigation initiated under the Compact.

19 ARTICLE VII

20 ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

21 a. The member states hereby create and establish a joint public
22 agency known as the Physical Therapy Compact Commission:

23 1. The Commission is an instrumentality of the Compact states.

24 2. Venue is proper and judicial proceedings by or against the
25 Commission shall be brought solely and exclusively in a court of
26 competent jurisdiction where the principal office of the Commission is
27 located. The Commission may waive venue and jurisdictional defenses to
28 the extent it adopts or consents to participate in alternative dispute
29 resolution proceedings.

30 3. Nothing in the Physical Therapy Licensure Compact shall be
31 construed to be a waiver of sovereign immunity.

1 b. Membership, Voting, and Meetings

2 1. Each member state shall have and be limited to one delegate
3 selected by that member state's physical therapy licensing board.

4 2. The delegate shall be a current member of the physical therapy
5 licensing board, who is a physical therapist, a physical therapist
6 assistant, a public member, or the administrator of the physical therapy
7 licensing board.

8 3. Any delegate may be removed or suspended from office as provided
9 by the law of the state from which the delegate is appointed.

10 4. The member state physical therapy licensing board shall fill any
11 vacancy occurring in the Commission.

12 5. Each delegate shall be entitled to one vote with regard to the
13 promulgation of rules and creation of bylaws and shall otherwise have an
14 opportunity to participate in the business and affairs of the Commission.

15 6. A delegate shall vote in person or by such other means as
16 provided in the bylaws. The bylaws may provide for delegates'
17 participation in meetings by telephone or other means of communication.

18 7. The Commission shall meet at least once during each calendar
19 year. Additional meetings shall be held as set forth in the bylaws.

20 c. The Commission shall have the following powers and duties:

21 1. Establish the fiscal year of the Commission;

22 2. Establish bylaws;

23 3. Maintain its financial records in accordance with the bylaws;

24 4. Meet and take such actions as are consistent with the Compact and
25 the bylaws;

26 5. Promulgate uniform rules to facilitate and coordinate
27 implementation and administration of the Compact. The rules shall have
28 the force and effect of law and shall be binding in all member states;

29 6. Bring and prosecute legal proceedings or actions in the name of
30 the Commission, provided that the standing of any state physical therapy
31 licensing board to sue or be sued under applicable law shall not be

1 affected;

2 7. Purchase and maintain insurance and bonds;

3 8. Borrow, accept, or contract for services of personnel, including,
4 but not limited to, employees of a member state;

5 9. Hire employees, elect or appoint officers, fix compensation,
6 define duties, grant such individuals appropriate authority to carry out
7 the purposes of the Compact, and to establish the Commission's personnel
8 policies and programs relating to conflicts of interest, qualifications
9 of personnel, and other related personnel matters;

10 10. Accept any and all appropriate donations and grants of money,
11 equipment, supplies, materials, and services, and to receive, utilize,
12 and dispose of the same; provided that at all times the Commission shall
13 avoid any appearance of impropriety or conflict of interest;

14 11. Lease, purchase, accept appropriate gifts or donations of, or
15 otherwise to own, hold, improve, or use, any property, real, personal, or
16 mixed; provided that at all times the Commission shall avoid any
17 appearance of impropriety;

18 12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or
19 otherwise dispose of any property real, personal, or mixed;

20 13. Establish a budget and make expenditures;

21 14. Borrow money;

22 15. Appoint committees, including standing committees composed of
23 members, state regulators, state legislators or their representatives,
24 and consumer representatives, and such other interested persons as may be
25 designated in the Compact and the bylaws;

26 16. Provide and receive information from, and cooperate with, law
27 enforcement agencies;

28 17. Establish and elect an executive board; and

29 18. Perform such other functions as may be necessary or appropriate
30 to achieve the purposes of the Compact consistent with the state
31 regulation of physical therapy licensure and practice.

1 d. The Executive Board

2 The executive board shall have the power to act on behalf of the
3 Commission according to the terms of the Compact.

4 1. The executive board shall be composed of nine members:

5 A. Seven voting members who are elected by the Commission from the
6 current membership of the Commission;

7 B. One ex officio, nonvoting member from the recognized national
8 physical therapy professional association; and

9 C. One ex officio, nonvoting member from the recognized membership
10 organization of the physical therapy licensing boards.

11 2. The ex officio members will be selected by their respective
12 organizations.

13 3. The Commission may remove any member of the executive board as
14 provided in bylaws.

15 4. The executive board shall meet at least annually.

16 5. The executive board shall have the following duties and
17 responsibilities:

18 A. Recommend to the entire Commission changes to the rules or
19 bylaws, changes to the Compact, fees paid by Compact member states such
20 as annual dues, and any commission Compact fee charged to licensees for
21 the compact privilege;

22 B. Ensure Compact administration services are appropriately
23 provided, contractual or otherwise;

24 C. Prepare and recommend the budget;

25 D. Maintain financial records on behalf of the Commission;

26 E. Monitor Compact compliance of member states and provide
27 compliance reports to the Commission;

28 F. Establish additional committees as necessary; and

29 G. Other duties as provided in rules or bylaws.

30 e. Meetings of the Commission

31 1. All meetings shall be open to the public, and public notice of

1 meetings shall be given in the same manner as required under the
2 rulemaking provisions in Article IX.

3 2. The Commission or the executive board or other committees of the
4 Commission may convene in a closed, nonpublic meeting if the Commission
5 or executive board or other committees of the Commission must discuss:

6 A. Noncompliance of a member state with its obligations under the
7 Compact;

8 B. The employment, compensation, discipline, or other matters,
9 practices or procedures related to specific employees or other matters
10 related to the Commission's internal personnel practices and procedures;

11 C. Current, threatened, or reasonably anticipated litigation;

12 D. Negotiation of contracts for the purchase, lease, or sale of
13 goods, services, or real estate;

14 E. Accusing any person of a crime or formally censuring any person;

15 F. Disclosure of trade secrets or commercial or financial
16 information that is privileged or confidential;

17 G. Disclosure of information of a personal nature where disclosure
18 would constitute a clearly unwarranted invasion of personal privacy;

19 H. Disclosure of investigative records compiled for law enforcement
20 purposes;

21 I. Disclosure of information related to any investigative reports
22 prepared by or on behalf of or for use of the Commission or other
23 committee charged with responsibility of investigation or determination
24 of compliance issues pursuant to the Compact; or

25 J. Matters specifically exempted from disclosure by federal or
26 member state statute.

27 3. If a meeting, or portion of a meeting, is closed pursuant to this
28 Article, the Commission's legal counsel or designee shall certify that
29 the meeting may be closed and shall reference each relevant exempting
30 provision.

31 4. The Commission shall keep minutes that fully and clearly describe

1 all matters discussed in a meeting and shall provide a full and accurate
2 summary of actions taken, and the reasons therefore, including a
3 description of the views expressed. All documents considered in
4 connection with an action shall be identified in such minutes. All
5 minutes and documents of a closed meeting shall remain under seal,
6 subject to release by a majority vote of the Commission or order of a
7 court of competent jurisdiction.

8 f. Financing of the Commission

9 1. The Commission shall pay, or provide for the payment of, the
10 reasonable expenses of its establishment, organization, and ongoing
11 activities.

12 2. The Commission may accept any and all appropriate revenue
13 sources, donations, and grants of money, equipment, supplies, materials,
14 and services.

15 3. The Commission may levy on and collect an annual assessment from
16 each member state or impose fees on other parties to cover the cost of
17 the operations and activities of the Commission and its staff, which must
18 be in a total amount sufficient to cover its annual budget as approved
19 each year for which revenue is not provided by other sources. The
20 aggregate annual assessment amount shall be allocated based upon a
21 formula to be determined by the Commission, which shall promulgate a rule
22 binding upon all member states.

23 4. The Commission shall not incur obligations of any kind prior to
24 securing the funds adequate to meet the same; nor shall the Commission
25 pledge the credit of any of the member states, except by and with the
26 authority of the member state.

27 5. The Commission shall keep accurate accounts of all receipts and
28 disbursements. The receipts and disbursements of the Commission shall be
29 subject to the audit and accounting procedures established under its
30 bylaws. However, all receipts and disbursements of funds handled by the
31 Commission shall be audited yearly by a certified or licensed public

1 accountant, and the report of the audit shall be included in and become
2 part of the annual report of the Commission.

3 g. Qualified Immunity, Defense, and Indemnification

4 1. The members, officers, executive director, employees, and
5 representatives of the Commission shall have no greater liability, either
6 personally or in their official capacity, for any claim for damage to or
7 loss of property or personal injury or other civil liability caused by or
8 arising out of any actual or alleged act, error, or omission that
9 occurred, or that the person against whom the claim is made had a
10 reasonable basis for believing occurred, within the scope of Commission
11 employment, duties, or responsibilities, than a state employee would have
12 under the same or similar circumstances; provided that nothing in this
13 paragraph shall be construed to protect any such person from suit or
14 liability for any damage, loss, injury, or liability caused by the
15 intentional or willful or wanton misconduct of that person.

16 2. The Commission shall defend any member, officer, executive
17 director, employee, or representative of the Commission in any civil
18 action seeking to impose liability arising out of any actual or alleged
19 act, error, or omission that occurred within the scope of Commission
20 employment, duties, or responsibilities, or that the person against whom
21 the claim is made had a reasonable basis for believing occurred within
22 the scope of Commission employment, duties, or responsibilities; provided
23 that nothing in this paragraph shall be construed to prohibit that person
24 from retaining his or her own counsel; and provided further, that the
25 actual or alleged act, error, or omission did not result from that
26 person's intentional or willful or wanton misconduct.

27 3. The Commission shall indemnify and hold harmless any member,
28 officer, executive director, employee, or representative of the
29 Commission for the amount of any settlement or judgment obtained against
30 that person arising out of any actual or alleged act, error, or omission
31 that occurred within the scope of Commission employment, duties, or

1 responsibilities, or that such person had a reasonable basis for
2 believing occurred within the scope of Commission employment, duties, or
3 responsibilities, provided that the actual or alleged act, error, or
4 omission did not result from the intentional or willful or wanton
5 misconduct of that person.

6 ARTICLE VIII

7 DATA SYSTEM

8 a. The Commission shall provide for the development, maintenance,
9 and utilization of a coordinated data base and reporting system
10 containing licensure, adverse action, and investigative information on
11 all licensed individuals in member states.

12 b. Notwithstanding any other provision of state law to the contrary,
13 a member state shall submit a uniform data set to the data system on all
14 individuals to whom the Physical Therapy Licensure Compact is applicable
15 as required by the rules of the Commission, including:

16 1. Identifying information;

17 2. Licensure data;

18 3. Adverse actions against a license or compact privilege;

19 4. Nonconfidential information related to alternative program
20 participation;

21 5. Any denial of application for licensure, and the reason for such
22 denial; and

23 6. Other information that may facilitate the administration of the
24 Compact, as determined by the rules of the Commission.

25 c. Investigative information pertaining to a licensee in any member
26 state will only be available to other party states.

27 d. The Commission shall promptly notify all member states of any
28 adverse action taken against a licensee or an individual applying for a
29 license. Adverse action information pertaining to a licensee in any
30 member state will be available to any other member state.

31 e. Member states contributing information to the data system may

1 designate information that may not be shared with the public without the
2 express permission of the contributing state.

3 f. Any information submitted to the data system that is subsequently
4 required to be expunged by the laws of the member state contributing the
5 information shall be removed from the data system.

6 ARTICLE IX

7 RULEMAKING

8 a. The Commission shall exercise its rulemaking powers pursuant to
9 the criteria set forth in this Article and the rules adopted thereunder.
10 Rules and amendments shall become binding as of the date specified in
11 each rule or amendment.

12 b. If a majority of the legislatures of the member states rejects a
13 rule, by enactment of a statute or resolution in the same manner used to
14 adopt the Physical Therapy Licensure Compact within four years of the
15 date of adoption of the rule, then such rule shall have no further force
16 and effect in any member state.

17 c. Rules or amendments to the rules shall be adopted at a regular or
18 special meeting of the Commission.

19 d. Prior to promulgation and adoption of a final rule or rules by
20 the Commission, and at least thirty days in advance of the meeting at
21 which the rule will be considered and voted upon, the Commission shall
22 file a notice of proposed rulemaking:

23 1. On the web site of the Commission or other publicly accessible
24 platform; and

25 2. On the web site of each member state physical therapy licensing
26 board or other publicly accessible platform or the publication in which
27 each state would otherwise publish proposed rules.

28 e. The notice of proposed rulemaking shall include:

29 1. The proposed time, date, and location of the meeting in which the
30 rule will be considered and voted upon;

31 2. The text of the proposed rule or amendment and the reason for the

1 proposed rule;

2 3. A request for comments on the proposed rule from any interested
3 person; and

4 4. The manner in which interested persons may submit notice to the
5 Commission of their intention to attend the public hearing and any
6 written comments.

7 f. Prior to adoption of a proposed rule, the Commission shall allow
8 persons to submit written data, facts, opinions, and arguments, which
9 shall be made available to the public.

10 g. The Commission shall grant an opportunity for a public hearing
11 before it adopts a rule or amendment if a hearing is requested by:

12 1. At least twenty-five persons;

13 2. A state or federal governmental subdivision or agency; or

14 3. An association having at least twenty-five members.

15 h. If a hearing is held on the proposed rule or amendment, the
16 Commission shall publish the place, time, and date of the scheduled
17 public hearing. If the hearing is held via electronic means, the
18 Commission shall publish the mechanism for access to the electronic
19 hearing.

20 1. All persons wishing to be heard at the hearing shall notify the
21 executive director of the Commission or other designated member in
22 writing of their desire to appear and testify at the hearing not less
23 than five business days before the scheduled date of the hearing.

24 2. Hearings shall be conducted in a manner providing each person who
25 wishes to comment a fair and reasonable opportunity to comment orally or
26 in writing.

27 3. All hearings will be recorded. A copy of the recording will be
28 made available on request.

29 4. Nothing in this section shall be construed as requiring a
30 separate hearing on each rule. Rules may be grouped for the convenience
31 of the Commission at hearings required by this Article.

1 i. Following the scheduled hearing date, or by the close of business
2 on the scheduled hearing date if the hearing was not held, the Commission
3 shall consider all written and oral comments received.

4 j. If no written notice of intent to attend the public hearing by
5 interested parties is received, the Commission may proceed with
6 promulgation of the proposed rule without a public hearing.

7 k. The Commission shall, by majority vote of all members, take final
8 action on the proposed rule and shall determine the effective date of the
9 rule, if any, based on the rulemaking record and the full text of the
10 rule.

11 l. Upon determination that an emergency exists, the Commission may
12 consider and adopt an emergency rule without prior notice, opportunity
13 for comment, or hearing, provided that the usual rulemaking procedures
14 provided in the Compact and in this section shall be retroactively
15 applied to the rule as soon as reasonably possible, in no event later
16 than ninety days after the effective date of the rule. For the purposes
17 of this paragraph, an emergency rule is one that must be adopted
18 immediately in order to:

- 19 1. Meet an imminent threat to public health, safety, or welfare;
20 2. Prevent a loss of Commission or member state funds;
21 3. Meet a deadline for the promulgation of an administrative rule
22 that is established by federal law or rule; or
23 4. Protect public health and safety.

24 m. The Commission or an authorized committee of the Commission may
25 direct revisions to a previously adopted rule or amendment for purposes
26 of correcting typographical errors, errors in format, errors in
27 consistency, or grammatical errors. Public notice of any revisions shall
28 be posted on the web site of the Commission. The revision shall be
29 subject to challenge by any person for a period of thirty days after
30 posting. The revision may be challenged only on grounds that the revision
31 results in a material change to a rule. A challenge shall be made in

1 writing, and delivered to the chair of the Commission prior to the end of
2 the notice period. If no challenge is made, the revision will take effect
3 without further action. If the revision is challenged, the revision may
4 not take effect without the approval of the Commission.

5 ARTICLE X

6 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

7 a. Oversight

8 1. The executive, legislative, and judicial branches of state
9 government in each member state shall enforce the Physical Therapy
10 Licensure Compact and take all actions necessary and appropriate to
11 effectuate the Compact's purposes and intent. The provisions of the
12 Compact and the rules promulgated under the Compact shall have standing
13 as statutory law.

14 2. All courts shall take judicial notice of the Compact and the
15 rules in any judicial or administrative proceeding in a member state
16 pertaining to the subject matter of the Compact which may affect the
17 powers, responsibilities, or actions of the Commission.

18 3. The Commission shall be entitled to receive service of process in
19 any such proceeding and shall have standing to intervene in such a
20 proceeding for all purposes. Failure to provide service of process to the
21 Commission shall render a judgment or order void as to the Commission,
22 the Compact, or promulgated rules.

23 b. Default, Technical Assistance, and Termination

24 1. If the Commission determines that a member state has defaulted in
25 the performance of its obligations or responsibilities under the Compact
26 or the promulgated rules, the Commission shall:

27 A. Provide written notice to the defaulting state and other member
28 states of the nature of the default, the proposed means of curing the
29 default, or any other action to be taken by the Commission; and

30 B. Provide remedial training and specific technical assistance
31 regarding the default.

1 2. If a state in default fails to cure the default, the defaulting
2 state may be terminated from the Compact upon an affirmative vote of a
3 majority of the member states, and all rights, privileges, and benefits
4 conferred by the Compact may be terminated on the effective date of
5 termination. A cure of the default does not relieve the offending state
6 of obligations or liabilities incurred during the period of default.

7 3. Termination of membership in the Compact shall be imposed only
8 after all other means of securing compliance have been exhausted. Notice
9 of intent to suspend or terminate shall be given by the Commission to the
10 governor, the majority and minority leaders of the defaulting state's
11 legislature or the Speaker if no such leaders exist, and each of the
12 member states.

13 4. A state that has been terminated is responsible for all
14 assessments, obligations, and liabilities incurred through the effective
15 date of termination, including obligations that extend beyond the
16 effective date of termination.

17 5. The Commission shall not bear any costs related to a state that
18 is found to be in default or that has been terminated from the Compact,
19 unless agreed upon in writing between the Commission and the defaulting
20 state.

21 6. The defaulting state may appeal the action of the Commission by
22 petitioning the United States District Court for the District of Columbia
23 or the federal district where the Commission has its principal offices.
24 The prevailing member shall be awarded all costs of such litigation,
25 including reasonable attorney's fees.

26 c. Dispute Resolution

27 1. Upon request by a member state, the Commission shall attempt to
28 resolve disputes related to the Compact that arise among member states
29 and between member and nonmember states.

30 2. The Commission shall promulgate a rule providing for both
31 mediation and binding dispute resolution for disputes as appropriate.

1 d. Enforcement

2 1. The Commission, in the reasonable exercise of its discretion,
3 shall enforce the provisions and rules of the Compact.

4 2. By majority vote, the Commission may initiate legal action in the
5 United States District Court for the District of Columbia or the federal
6 district where the Commission has its principal offices against a member
7 state in default to enforce compliance with the Compact and its
8 promulgated rules and bylaws. The relief sought may include both
9 injunctive relief and damages. In the event judicial enforcement is
10 necessary, the prevailing member shall be awarded all costs of such
11 litigation, including reasonable attorney's fees.

12 3. The remedies in this Article shall not be the exclusive remedies
13 of the Commission. The Commission may pursue any other remedies available
14 under federal or state law.

15 ARTICLE XI

16 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL
17 THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

18 a. The Physical Therapy Licensure Compact shall come into effect on
19 the date on which the Compact is enacted into law in the tenth member
20 state. The provisions, which become effective at that time, shall be
21 limited to the powers granted to the Commission relating to assembly and
22 the promulgation of rules. Thereafter, the Commission shall meet and
23 exercise rulemaking powers necessary to the implementation and
24 administration of the Compact.

25 b. Any state that joins the Compact subsequent to the Commission's
26 initial adoption of the rules shall be subject to the rules as they exist
27 on the date on which the Compact becomes law in that state. Any rule that
28 has been previously adopted by the Commission shall have the full force
29 and effect of law on the day the Compact becomes law in that state.

30 c. Any member state may withdraw from the Compact by enacting a
31 statute repealing the same.

1 1. A member state's withdrawal shall not take effect until six
2 months after enactment of the repealing statute.

3 2. Withdrawal shall not affect the continuing requirement of the
4 withdrawing state's physical therapy licensing board to comply with the
5 investigative and adverse action reporting requirements of the Compact
6 prior to the effective date of withdrawal.

7 d. Nothing contained in the Compact shall be construed to invalidate
8 or prevent any physical therapy licensure agreement or other cooperative
9 arrangement between a member state and a nonmember state that does not
10 conflict with the Compact.

11 e. The Compact may be amended by the member states. No amendment to
12 the Compact shall become effective and binding upon any member state
13 until it is enacted into the laws of all member states.

14 ARTICLE XII

15 CONSTRUCTION AND SEVERABILITY

16 The Physical Therapy Licensure Compact shall be liberally construed
17 so as to effectuate the purposes of the Compact. The provisions of the
18 Compact shall be severable and if any phrase, clause, sentence, or
19 provision of the Compact is declared to be contrary to the constitution
20 of any party state or of the United States or the applicability thereof
21 to any government, agency, person, or circumstance is held invalid, the
22 validity of the remainder of the Compact and the applicability thereof to
23 any government, agency, person, or circumstance shall not be affected
24 thereby. If the Compact shall be held contrary to the constitution of any
25 party state, the Compact shall remain in full force and effect as to the
26 remaining party states and in full force and effect as to the party state
27 affected as to all severable matters.

28 Sec. 102. Sections 37, 38, 39, 40, 41, 42, 43, 44, 58, 59, 60, 61,
29 62, 63, 64, 65, 79, 84, 85, 86, 87, 88, 89, 90, 91, and 105 of this act
30 become operative on January 1, 2019. The other sections of this act
31 become operative on their effective date.

1 Sec. 103. If any section in this act or any part of any section is
2 declared invalid or unconstitutional, the declaration shall not affect
3 the validity or constitutionality of the remaining portions.

4 Sec. 104. Original sections 38-131, 38-145, 38-1001, 38-1004,
5 38-1005, 38-1017, 38-1018, 38-1028, 38-1036, 38-1038, 38-1043, 38-1058,
6 38-1061, 38-1062, 38-1063, 38-1065, 38-1069, 38-1073, 38-1074, 38-1075,
7 38-1086, 38-1097, 38-1099, 38-10,100, 38-10,102, 38-10,103, 38-10,104,
8 38-10,105, 38-10,107, 38-10,108, 38-10,112, 38-10,120, 38-10,128,
9 38-10,129, 38-10,131, 38-10,133, 38-10,135, 38-10,142, 38-10,147,
10 38-10,150, 38-10,152, 38-10,153, 38-10,154, 38-10,156, 38-10,171,
11 38-2833, 38-2847, 38-2891, 38-28,106, 38-3208, 71-203, 71-204, 71-208.08,
12 and 71-425, Reissue Revised Statutes of Nebraska, sections 71-208,
13 71-403, 71-2448, and 71-2483, Revised Statutes Cumulative Supplement,
14 2016, and sections 38-1066, 38-1070, 38-10,132, 38-2801, 38-2802,
15 38-2870, 38-2892, and 71-401, Revised Statutes Supplement, 2017, are
16 repealed.

17 Sec. 105. Original section 71-224, Reissue Revised Statutes of
18 Nebraska, and section 71-202.01, Revised Statutes Cumulative Supplement,
19 2016, are repealed.

20 Sec. 106. The following sections are outright repealed: Sections
21 38-1013, 38-1014, 38-1022, 38-1029, 38-1030, 38-1071, 38-1072, 38-1091,
22 38-1092, 38-1093, 38-1094, 38-1095, 38-1096, 38-10,106, and 38-10,155,
23 Reissue Revised Statutes of Nebraska.