

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1034**

FINAL READING

Introduced by Riepe, 12.

Read first time January 17, 2018

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health and welfare; to amend  
2 sections 38-122, 38-131, 38-321, 38-1201, 38-1204, 38-1205, 38-1208,  
3 38-1215, 38-1216, 38-1219, 38-1221, 38-1224, 38-1225, 38-1229,  
4 38-1232, 38-1237, 38-2025, 38-2026, 38-2104, 38-2112, 38-2115,  
5 38-2117, 38-2122, 38-2123, 38-2124, 38-2518, 38-2519, 38-2521,  
6 38-2826.01, 38-3101, 38-3111, 44-772, 44-792, 69-2429, 71-423,  
7 71-430, 71-507, 71-906, and 71-1913, Reissue Revised Statutes of  
8 Nebraska, sections 71-403, 71-413, 71-474, 71-1908, 71-2411,  
9 71-4204, 71-4205, 71-4209, and 77-2704.12, Revised Statutes  
10 Cumulative Supplement, 2016, and sections 28-401, 28-470, 29-2261,  
11 38-319, 38-1217, 38-1218, 38-2125, 71-401, 71-2445, and 71-2454,  
12 Revised Statutes Supplement, 2017; to define and redefine terms; to  
13 change provisions relating to credentialing under the Uniform  
14 Credentialing Act, licensure under the Health Care Facility  
15 Licensure Act and the Child Care Licensing Act, the prescription  
16 drug monitoring system, and the Stroke System of Care Act; to change  
17 provisions of the Emergency Medical Services Practice Act as  
18 prescribed; to adopt the EMS Personnel Licensure Interstate Compact  
19 and the Psychology Interjurisdictional Compact; to harmonize  
20 provisions; and to repeal the original sections.  
21 Be it enacted by the people of the State of Nebraska,

1       Section 1. Section 28-401, Revised Statutes Supplement, 2017, is  
2 amended to read:

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

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

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

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

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

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

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

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

1 Substances Act;

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

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

9 (10) Prescribe means to issue a medical order;

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

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

21 (13) Marijuana means all parts of the plant of the genus cannabis,  
22 whether growing or not, the seeds thereof, and every compound,  
23 manufacture, salt, derivative, mixture, or preparation of such plant or  
24 its seeds, but does not include the mature stalks of such plant, hashish,  
25 tetrahydrocannabinols extracted or isolated from the plant, fiber  
26 produced from such stalks, oil or cake made from the seeds of such plant,  
27 any other compound, manufacture, salt, derivative, mixture, or  
28 preparation of such mature stalks, the sterilized seed of such plant  
29 which is incapable of germination, or cannabidiol contained in a drug  
30 product approved by the federal Food and Drug Administration or obtained  
31 pursuant to sections 28-463 to 28-468. When the weight of marijuana is

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

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

24 (15) Narcotic drug means any of the following, whether produced  
25 directly or indirectly by extraction from substances of vegetable origin,  
26 independently by means of chemical synthesis, or by a combination of  
27 extraction and chemical synthesis: (a) Opium, opium poppy and poppy  
28 straw, coca leaves, and opiates; (b) a compound, manufacture, salt,  
29 derivative, or preparation of opium, coca leaves, or opiates; or (c) a  
30 substance and any compound, manufacture, salt, derivative, or preparation  
31 thereof which is chemically equivalent to or identical with any of the

1 substances referred to in subdivisions (a) and (b) of this subdivision,  
2 except that the words narcotic drug as used in the Uniform Controlled  
3 Substances Act does not include decocainized coca leaves or extracts of  
4 coca leaves, which extracts do not contain cocaine or ecgonine, or  
5 isoquinoline alkaloids of opium;

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

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

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

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

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

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

29 (22) Immediate precursor means a substance which is the principal  
30 compound commonly used or produced primarily for use and which is an  
31 immediate chemical intermediary used or likely to be used in the

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

3 (23) State means the State of Nebraska;

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

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

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

14 (27) Hashish or concentrated cannabis means (a) the separated resin,  
15 whether crude or purified, obtained from a plant of the genus cannabis or  
16 (b) any material, preparation, mixture, compound, or other substance  
17 which contains ten percent or more by weight of tetrahydrocannabinols.

18 When resins extracted from industrial hemp as defined in section 2-5701  
19 are in the possession of a person as authorized under section 2-5701,  
20 they are not considered hashish or concentrated cannabis for purposes of  
21 the Uniform Controlled Substances Act;

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

26 (29) Imitation controlled substance means a substance which is not a  
27 controlled substance or controlled substance analogue but which, by way  
28 of express or implied representations and consideration of other relevant  
29 factors including those specified in section 28-445, would lead a  
30 reasonable person to believe the substance is a controlled substance or  
31 controlled substance analogue. A placebo or registered investigational

1 drug manufactured, distributed, possessed, or delivered in the ordinary  
2 course of practice or research by a health care professional shall not be  
3 deemed to be an imitation controlled substance;

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

16 (b) Controlled substance analogue does not include (i) a controlled  
17 substance, (ii) any substance generally recognized as safe and effective  
18 within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
19 301 et seq., as such act existed on January 1, 2014, (iii) any substance  
20 for which there is an approved new drug application, or (iv) with respect  
21 to a particular person, any substance if an exemption is in effect for  
22 investigational use for that person, under section 505 of the Federal  
23 Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on  
24 January 1, 2014, to the extent conduct with respect to such substance is  
25 pursuant to such exemption;

26 (31) Anabolic steroid means any drug or hormonal substance,  
27 chemically and pharmacologically related to testosterone (other than  
28 estrogens, progestins, and corticosteroids), that promotes muscle growth  
29 and includes any controlled substance in Schedule III(d) of section  
30 28-405. Anabolic steroid does not include any anabolic steroid which is  
31 expressly intended for administration through implants to cattle or other

1 nonhuman species and has been approved by the Secretary of Health and  
2 Human Services for such administration, but if any person prescribes,  
3 dispenses, or distributes such a steroid for human use, such person shall  
4 be considered to have prescribed, dispensed, or distributed an anabolic  
5 steroid within the meaning of this subdivision;

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

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

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

15 (35) Registrant means any person who has a controlled substances  
16 registration issued by the state or the Drug Enforcement Administration  
17 of the United States Department of Justice;

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

22 (37) Signature means the name, word, or mark of a person written in  
23 his or her own hand with the intent to authenticate a writing or other  
24 form of communication or a digital signature which complies with section  
25 86-611 or an electronic signature;

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

30 (39) Electronic signature has the definition found in section  
31 86-621;

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

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

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

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

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

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

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

30           (c) The product or substance is marketed or advertised for a  
31 particular use or purpose and the cost of the product or substance is

1 disproportionately higher than other products or substances marketed or  
2 advertised for the same or similar use or purpose;

3 (d) The packaging or label on the product or substance contains  
4 words or markings that state or suggest that the product or substance is  
5 in compliance with state and federal laws regulating controlled  
6 substances;

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

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

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

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

26 Sec. 2. Section 28-470, Revised Statutes Supplement, 2017, is  
27 amended to read:

28 28-470 (1) A health professional who is authorized to prescribe or  
29 dispense naloxone, if acting with reasonable care, may prescribe,  
30 administer, or dispense naloxone to any of the following persons without  
31 being subject to administrative action or criminal prosecution:

1           (a) A person who is apparently experiencing or who is likely to  
2 experience an opioid-related overdose; or

3           (b) A family member, friend, or other person in a position to assist  
4 a person who is apparently experiencing or who is likely to experience an  
5 opioid-related overdose.

6           (2) A family member, friend, or other person who is in a position to  
7 assist a person who is apparently experiencing or who is likely to  
8 experience an opioid-related overdose, other than an emergency responder  
9 or peace officer, is not subject to actions under the Uniform  
10 Credentialing Act, administrative action, or criminal prosecution if the  
11 person, acting in good faith, obtains naloxone from a health professional  
12 or a prescription for naloxone from a health professional and administers  
13 the naloxone obtained from the health professional or acquired pursuant  
14 to the prescription to a person who is apparently experiencing an opioid-  
15 related overdose.

16           (3) An emergency responder who, acting in good faith, obtains  
17 naloxone from the emergency responder's emergency medical service  
18 organization and administers the naloxone to a person who is apparently  
19 experiencing an opioid-related overdose shall not be:

20           (a) Subject to administrative action or criminal prosecution; or  
21           (b) Personally liable in any civil action to respond in damages as a  
22 result of his or her acts of commission or omission arising out of and in  
23 the course of his or her rendering such care or services or arising out  
24 of his or her failure to act to provide or arrange for further medical  
25 treatment or care for the person who is apparently experiencing an  
26 opioid-related overdose, unless the emergency responder caused damage or  
27 injury by his or her willful, wanton, or grossly negligent act of  
28 commission or omission. This subdivision shall not affect the liability  
29 of such emergency medical service organization for the emergency  
30 responder's acts of commission or omission.

31           (4) A peace officer who, acting in good faith, obtains naloxone from

1 the peace officer's law enforcement agency and administers the naloxone  
2 to a person who is apparently experiencing an opioid-related overdose  
3 shall not be:

4 (a) Subject to administrative action or criminal prosecution; or  
5 (b) Personally liable in any civil action to respond in damages as a  
6 result of his or her acts of commission or omission arising out of and in  
7 the course of his or her rendering such care or services or arising out  
8 of his or her failure to act to provide or arrange for further medical  
9 treatment or care for the person who is apparently experiencing an  
10 opioid-related overdose, unless the peace officer caused damage or injury  
11 by his or her willful, wanton, or grossly negligent act of commission or  
12 omission. This subdivision shall not affect the liability of such law  
13 enforcement agency for the peace officer's acts of commission or  
14 omission.

15 (5) For purposes of this section:

16 (a) Administer has the same meaning as in section 38-2806;

17 (b) Dispense has the same meaning as in section 38-2817;

18 (c) Emergency responder means an emergency medical responder, an  
19 emergency medical technician, an advanced emergency medical technician,  
20 or a paramedic licensed under the Emergency Medical Services Practice Act  
21 or practicing pursuant to the EMS Personnel Licensure Interstate Compact;

22 (d) Health professional means a physician, physician assistant,  
23 nurse practitioner, or pharmacist licensed under the Uniform  
24 Credentialing Act;

25 (e) Law enforcement agency means a police department, a town  
26 marshal, the office of sheriff, or the Nebraska State Patrol;

27 (f) Naloxone means naloxone hydrochloride; and

28 (g) Peace officer has the same meaning as in section 49-801.

29 Sec. 3. Section 29-2261, Revised Statutes Supplement, 2017, is  
30 amended to read:

31 29-2261 (1) Unless it is impractical to do so, when an offender has

1    been convicted of a felony other than murder in the first degree, the  
2    court shall not impose sentence without first ordering a presentence  
3    investigation of the offender and according due consideration to a  
4    written report of such investigation. When an offender has been convicted  
5    of murder in the first degree and (a) a jury renders a verdict finding  
6    the existence of one or more aggravating circumstances as provided in  
7    section 29-2520 or (b)(i) the information contains a notice of  
8    aggravation as provided in section 29-1603 and (ii) the offender waives  
9    his or her right to a jury determination of the alleged aggravating  
10   circumstances, the court shall not commence the sentencing determination  
11   proceeding as provided in section 29-2521 without first ordering a  
12   presentence investigation of the offender and according due consideration  
13   to a written report of such investigation.

14        (2) A court may order a presentence investigation in any case,  
15   except in cases in which an offender has been convicted of a Class IIIA  
16   misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic  
17   infraction, or any corresponding city or village ordinance.

18        (3) The presentence investigation and report shall include, when  
19   available, an analysis of the circumstances attending the commission of  
20   the crime, the offender's history of delinquency or criminality, physical  
21   and mental condition, family situation and background, economic status,  
22   education, occupation, and personal habits, and any other matters that  
23   the probation officer deems relevant or the court directs to be included.  
24   All local and state police agencies and Department of Correctional  
25   Services adult correctional facilities shall furnish to the probation  
26   officer copies of such criminal records, in any such case referred to the  
27   probation officer by the court of proper jurisdiction, as the probation  
28   officer shall require without cost to the court or the probation officer.

29        Such investigation shall also include:

30        (a) Any written statements submitted to the county attorney by a  
31   victim; and

1           (b) Any written statements submitted to the probation officer by a  
2 victim.

3           (4) If there are no written statements submitted to the probation  
4 officer, he or she shall certify to the court that:

5           (a) He or she has attempted to contact the victim; and

6           (b) If he or she has contacted the victim, such officer offered to  
7 accept the written statements of the victim or to reduce such victim's  
8 oral statements to writing.

9           For purposes of subsections (3) and (4) of this section, the term  
10 victim shall be as defined in section 29-119.

11          (5) Before imposing sentence, the court may order the offender to  
12 submit to psychiatric observation and examination for a period of not  
13 exceeding sixty days or such longer period as the court determines to be  
14 necessary for that purpose. The offender may be remanded for this purpose  
15 to any available clinic or mental hospital, or the court may appoint a  
16 qualified psychiatrist to make the examination. The report of the  
17 examination shall be submitted to the court.

18          (6)(a) ~~(6)~~ Any presentence report, substance abuse evaluation, or  
19 psychiatric examination shall be privileged and shall not be disclosed  
20 directly or indirectly to anyone other than a judge; ~~or~~ probation officers  
21 to whom an offender's file is duly transferred; ~~or~~ the probation  
22 administrator or his or her designee; ~~or~~ alcohol and drug counselors,  
23 mental health practitioners, psychiatrists, and psychologists licensed or  
24 certified under the Uniform Credentialing Act to conduct substance abuse  
25 evaluations and treatment; ~~or~~ or others entitled by law to receive such  
26 information, including personnel and mental health professionals for the  
27 Nebraska State Patrol specifically assigned to sex offender registration  
28 and community notification for the sole purpose of using such report,  
29 evaluation, or examination for assessing risk and for community  
30 notification of registered sex offenders.

31          (b) For purposes of this subsection, mental health professional

1 means (i) ~~(a)~~ a practicing physician licensed to practice medicine in  
2 this state under the Medicine and Surgery Practice Act, (ii) ~~(b)~~ a  
3 practicing psychologist licensed to engage in the practice of psychology  
4 in this state as provided in section 38-3111 or as provided under similar  
5 provisions of the Psychology Interjurisdictional Compact, or (iii) ~~(c)~~ a  
6 practicing mental health professional licensed or certified in this state  
7 as provided in the Mental Health Practice Act.

8 (7) The court shall permit inspection of the presentence report,  
9 substance abuse evaluation, or psychiatric examination or parts of the  
10 report, evaluation, or examination, as determined by the court, by the  
11 prosecuting attorney and defense counsel. Beginning July 1, 2016, such  
12 inspection shall be by electronic access only unless the court determines  
13 such access is not available to the prosecuting attorney or defense  
14 counsel. The State Court Administrator shall determine and develop the  
15 means of electronic access to such presentence reports, evaluations, and  
16 examinations. Upon application by the prosecuting attorney or defense  
17 counsel, the court may order that addresses, telephone numbers, and other  
18 contact information for victims or witnesses named in the report,  
19 evaluation, or examination be redacted upon a showing by a preponderance  
20 of the evidence that such redaction is warranted in the interests of  
21 public safety. The court may permit inspection of the presentence report,  
22 substance abuse evaluation, or psychiatric examination or examination of  
23 parts of the report, evaluation, or examination by any other person  
24 having a proper interest therein whenever the court finds it is in the  
25 best interest of a particular offender. The court may allow fair  
26 opportunity for an offender to provide additional information for the  
27 court's consideration.

28 (8) If an offender is sentenced to imprisonment, a copy of the  
29 report of any presentence investigation, substance abuse evaluation, or  
30 psychiatric examination shall be transmitted immediately to the  
31 Department of Correctional Services. Upon request, the Board of Parole or

1 the Office of Parole Administration may receive a copy of the report from  
2 the department.

3 (9) Notwithstanding subsections (6) and (7) of this section, the  
4 Supreme Court or an agent of the Supreme Court acting under the direction  
5 and supervision of the Chief Justice shall have access to psychiatric  
6 examinations, substance abuse evaluations, and presentence investigations  
7 and reports for research purposes. The Supreme Court and its agent shall  
8 treat such information as confidential, and nothing identifying any  
9 individual shall be released.

10 Sec. 4. Section 38-122, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 38-122 Every initial credential to practice a profession or engage  
13 in a business shall be in the form of a document under the name of the  
14 department ~~and signed by the director, the Governor, and the officers of~~  
15 ~~the appropriate board, if any.~~

16 Sec. 5. Section 38-131, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 38-131 (1) An applicant for an initial license to practice as a  
19 registered nurse, or a licensed practical nurse, a psychologist, an  
20 advanced emergency medical technician, an emergency medical technician,  
21 or a paramedic or to practice a profession which is authorized to  
22 prescribe controlled substances shall be subject to a criminal background  
23 check. A criminal background check may also be required for initial  
24 licensure or reinstatement of a license governed by the Uniform  
25 Credentialing Act if a criminal background check is required by an  
26 interstate licensure compact. Except as provided in subsection (3) of  
27 this section, the applicant shall submit with the application a full set  
28 of fingerprints which shall be forwarded to the Nebraska State Patrol to  
29 be submitted to the Federal Bureau of Investigation for a national  
30 criminal history record information check. The applicant shall authorize  
31 release of the results of the national criminal history record

1 information check to the department. The applicant shall pay the actual  
2 cost of the fingerprinting and criminal background check.

3 (2) This section shall not apply to a dentist who is an applicant  
4 for a dental locum tenens under section 38-1122, to a physician or  
5 osteopathic physician who is an applicant for a physician locum tenens  
6 under section 38-2036, or to a veterinarian who is an applicant for a  
7 veterinarian locum tenens under section 38-3335.

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

14 Sec. 6. Section 38-319, Revised Statutes Supplement, 2017, is  
15 amended to read:

16 38-319 The department, with the recommendation of the board, may  
17 issue a license based on licensure in another jurisdiction to an  
18 individual who (1) meets the requirements of the Alcohol and Drug  
19 Counseling Practice Act, (2) meets or substantially equivalent  
20 requirements as determined by the department, with the recommendation of  
21 the board, or (3) holds a license or certification that is current in  
22 another jurisdiction that authorizes the applicant to provide alcohol and  
23 drug counseling, has at least two hundred seventy hours of alcohol and  
24 drug counseling education, has at least three years of full-time alcohol  
25 and drug counseling practice following initial licensure or certification  
26 in the other jurisdiction, and has passed an alcohol and drug counseling  
27 examination. An applicant who is a military spouse may apply for a  
28 temporary license as provided in section 38-129.01.

29 Sec. 7. Section 38-321, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 38-321 (1) The department, with the recommendation of the board,

1 shall adopt and promulgate rules and regulations to administer the  
2 Alcohol and Drug Counseling Practice Act, including rules and regulations  
3 governing:

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

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

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

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

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

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

21       Sec. 8. Section 38-1201, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23       38-1201 Sections 38-1201 to 38-1237 and sections 10, 12, 13, 14, 16,  
24 17, and 22 of this act shall be known and may be cited as the Emergency  
25 Medical Services Practice Act.

26       Sec. 9. Section 38-1204, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28       38-1204 For purposes of the Emergency Medical Services Practice Act  
29 and elsewhere in the Uniform Credentialing Act, unless the context  
30 otherwise requires, the definitions found in sections 38-1205 to 38-1214  
31 and sections 10, 12, 13, 14, 16, and 17 of this act apply.

1        Sec. 10. Advanced emergency medical technician practice of out-of-  
2 hospital emergency medical care means care provided in accordance with  
3 the knowledge and skill acquired through successful completion of an  
4 approved program for an advanced emergency medical technician. Such care  
5 includes, but is not limited to, (1) all of the acts that an emergency  
6 medical technician is authorized to perform and (2) complex  
7 interventions, treatments, and pharmacological interventions.

8        Sec. 11. Section 38-1205, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10       38-1205 Ambulance means any privately or publicly owned motor  
11 vehicle or aircraft that is especially designed, constructed or modified,  
12 and equipped and is intended to be used and is maintained or operated for  
13 the overland or air transportation of patients upon the streets, roads,  
14 highways, airspace, or public ways in this state, ~~including funeral~~  
15 ~~coaches or hearses,~~ or any other motor vehicles or aircraft used for such  
16 purposes.

17       Sec. 12. Emergency medical responder practice of out-of-hospital  
18 emergency medical care means care provided in accordance with the  
19 knowledge and skill acquired through successful completion of an approved  
20 program for an emergency medical responder. Such care includes, but is  
21 not limited to, (1) contributing to the assessment of the health status  
22 of an individual, (2) simple, noninvasive interventions, and (3)  
23 minimizing secondary injury to an individual.

24       Sec. 13. Emergency medical technician practice of out-of-hospital  
25 emergency medical care means care provided in accordance with the  
26 knowledge and skill acquired through successful completion of an approved  
27 program for an emergency medical technician. Such care includes, but is  
28 not limited to, (1) all of the acts that an emergency medical responder  
29 can perform, and (2) simple invasive interventions, management and  
30 transportation of individuals, and nonvisualized intubation.

31       Sec. 14. Emergency medical technician-intermediate practice of out-

1   of-hospital emergency medical care means care provided in accordance with  
2   the knowledge and skill acquired through successful completion of an  
3   approved program for an emergency medical technician-intermediate. Such  
4   care includes, but is not limited to, (1) all of the acts that an  
5   advanced emergency medical technician can perform, and (2) visualized  
6   intubation. This section terminates on December 31, 2025.

7       Sec. 15. Section 38-1208, Reissue Revised Statutes of Nebraska, is  
8   amended to read:

9           38-1208 Out-of-hospital emergency care provider includes all  
10   licensure classifications of emergency care providers established  
11   pursuant to the Emergency Medical Services Practice Act. Prior to  
12   December 31, 2025, out-of-hospital emergency care provider includes out-  
13   of-hospital advanced emergency medical technician, emergency medical  
14   responder, emergency medical technician, emergency medical technician-  
15   intermediate, and paramedic. On and after December 31, 2025, out-of-  
16   hospital emergency care provider includes advanced emergency medical  
17   technician, emergency medical responder, emergency medical technician,  
18   and paramedic.

19       Sec. 16. Paramedic practice of out-of-hospital emergency medical  
20   care means care provided in accordance with the knowledge and skill  
21   acquired through successful completion of an approved program for a  
22   paramedic. Such care includes, but is not limited to, (1) all of the acts  
23   that an emergency medical technician-intermediate can perform, and (2)  
24   surgical cricothyrotomy.

25       Sec. 17. Practice of out-of-hospital emergency medical care means  
26   the performance of any act using judgment or skill based upon the United  
27   States Department of Transportation education standards and guideline  
28   training requirements, the National Highway Traffic Safety  
29   Administration's National Emergency Medical Service Scope of Practice  
30   Model and National Emergency Medical Services Education Standards, and  
31   permitted practices and procedures for the level of licensure listed in

1   section 38-1217. Such acts include the identification of and intervention  
2   in actual or potential health problems of individuals and are directed  
3   toward addressing such problems based on actual or perceived traumatic or  
4   medical circumstances prior to or during transportation to a hospital or  
5   for routine transportation between health care facilities or services.  
6   Such acts are provided under therapeutic regimens ordered by a physician  
7   medical director or through protocols as provided by the Emergency  
8   Medical Services Practice Act.

9               Sec. 18. Section 38-1215, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11               38-1215 (1) The board shall have seventeen members appointed by the  
12 Governor with the approval of a majority of the Legislature. The  
13 appointees may begin to serve immediately following appointment and prior  
14 to approval by the Legislature.

15               (2)(a) Seven members of the board shall be active out-of-hospital  
16 emergency care providers at the time of and for the duration of their  
17 appointment, and each shall have at least five years of experience in his  
18 or her level of licensure at the time of his or her appointment or  
19 reappointment. Of the seven members who are out-of-hospital emergency  
20 care providers, two shall be emergency medical responders, two shall be  
21 emergency medical technicians, one shall be an advanced emergency medical  
22 technician, and two shall be paramedics.

23               (b) Three of the members shall be qualified physicians actively  
24 involved in emergency medical care. At least one of the physician members  
25 shall be a board-certified emergency physician, and at least one of the  
26 physician members shall specialize in pediatrics.

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

1       out-of-hospital emergency medical care education, and two public members  
2       who meet the requirements of section 38-165 and who have an expressed  
3       interest in the provision of out-of-hospital emergency medical care.

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

6           (e) In addition to any other criteria for appointment, among the  
7       members of the board appointed after January 1, 2017, there shall be at  
8       least three members who are volunteer emergency medical care providers,  
9       at least one member who is a paid emergency medical care provider, at  
10      least one member who is a firefighter, at least one member who is a law  
11      enforcement officer, and at least one member who is active in the  
12      Critical Incident Stress Management Program. If a person appointed to the  
13      board is qualified to serve as a member in more than one capacity, all  
14      qualifications of such person shall be taken into consideration to  
15      determine whether or not the diversity in qualifications required in this  
16      subsection has been met.

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

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

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

31           (5) The Governor upon recommendation of the department shall have

1 power to remove from office at any time any member of the board for  
2 physical or mental incapacity to carry out the duties of a board member,  
3 for continued neglect of duty, for incompetency, for acting beyond the  
4 individual member's scope of authority, for malfeasance in office, for  
5 any cause for which a professional credential may be suspended or revoked  
6 pursuant to the Uniform Credentialing Act, or for a lack of license  
7 required by the Emergency Medical Services Practice Act.

8 (6) Except as provided in subsection (5) of this section and  
9 notwithstanding subsection (2) of this section, a member of the board who  
10 changes his or her licensure classification after appointment or has a  
11 licensure classification which is terminated under section 38-1217 or  
12 section 14 of this act when such licensure classification was a  
13 qualification for appointment shall be permitted to continue to serve as  
14 a member of the board until the expiration of his or her term.

15 Sec. 19. Section 38-1216, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 38-1216 In addition to any other responsibilities prescribed by the  
18 Emergency Medical Services Practice Act, the board shall:

19 (1) Promote the dissemination of public information and education  
20 programs to inform the public about out-of-hospital emergency medical  
21 care and other out-of-hospital medical information, including appropriate  
22 methods of medical self-help, first aid, and the availability of out-of-  
23 hospital emergency medical services training programs in the state;

24 (2) Provide for the collection of information for evaluation of the  
25 availability and quality of out-of-hospital emergency medical care,  
26 evaluate the availability and quality of out-of-hospital emergency  
27 medical care, and serve as a focal point for discussion of the provision  
28 of out-of-hospital emergency medical care;

29 (3) Review and comment on all state agency proposals and  
30 applications that seek funding for out-of-hospital emergency medical  
31 care;

1       (3) ~~(4)~~ Establish model procedures for patient management in out-of-  
2 hospital medical emergencies that do not limit the authority of law  
3 enforcement and fire protection personnel to manage the scene during an  
4 out-of-hospital medical emergency;

5       (4) ~~(5)~~ Not less than once each five years, undertake a review and  
6 evaluation of the act and its implementation together with a review of  
7 the out-of-hospital emergency medical care needs of the citizens of the  
8 State of Nebraska and submit electronically a report to the Legislature  
9 with any recommendations which it may have; and

10      (5) ~~(6)~~ Identify communication needs of emergency medical services  
11 and make recommendations for development of a communications plan for a  
12 communications network for out-of-hospital emergency care providers and  
13 emergency medical services.

14      Sec. 20. Section 38-1217, Revised Statutes Supplement, 2017, is  
15 amended to read:

16      38-1217 The board shall adopt rules and regulations necessary to:

17      (1) Create licensure requirements for advanced emergency medical  
18 technicians, emergency medical responders, emergency medical technicians,  
19 and paramedics and, until December 31, 2025, create renewal requirements  
20 for emergency medical technicians-intermediate. ~~(1)(a) For licenses~~  
21 ~~issued prior to September 1, 2010, create the following licensure~~  
22 ~~classifications of out-of-hospital emergency care providers: (i) First~~  
23 ~~responder; (ii) emergency medical technician; (iii) emergency medical~~  
24 ~~technician-intermediate; and (iv) emergency medical technician-paramedic;~~  
25 ~~and (b) for licenses issued on or after September 1, 2010, create the~~  
26 ~~following licensure classifications of out-of-hospital emergency care~~  
27 ~~providers: (i) Emergency medical responder; (ii) emergency medical~~  
28 ~~technician; (iii) advanced emergency medical technician; and (iv)~~  
29 ~~paramedic.~~ The rules and regulations creating the classifications shall  
30 include all the practices and procedures authorized for each  
31 classification, training and testing requirements, renewal and

1 ~~reinstatement requirements, and other criteria and qualifications for~~  
2 ~~each classification determined to be necessary for protection of public~~  
3 ~~health and safety. A person holding a license issued prior to September~~  
4 ~~1, 2010, shall be authorized to practice in accordance with the laws,~~  
5 ~~rules, and regulations governing the license for the term of the license;~~

6 (2) Provide for temporary licensure of an out-of-hospital emergency  
7 care provider who has completed the educational requirements for a  
8 licensure classification enumerated in subdivision (1) (1)(b) of this  
9 section but has not completed the testing requirements for licensure  
10 under such subdivision. A temporary license shall allow the person to  
practice only in association with a licensed out-of-hospital emergency  
care provider under physician medical direction and shall be valid until  
the date on which the results of the next licensure examination are  
available to the department. The temporary license shall expire  
immediately if the applicant has failed the examination. In no case may a  
temporary license be issued for a period extending beyond one year. Such  
temporary licensure shall be valid for one year or until a license is  
issued under such subdivision and shall not be subject to renewal. The  
19 rules and regulations shall include qualifications and training necessary  
20 for issuance of such temporary license, the practices and procedures  
21 authorized for a temporary licensee under this subdivision, and  
22 supervision required for a temporary licensee under this subdivision. The  
23 requirements of this subdivision and the rules and regulations adopted  
24 and promulgated pursuant to this subdivision do not apply to a temporary  
25 license issued as provided in section 38-129.01;

26 (3) Provide for temporary licensure of an out-of-hospital emergency  
27 care provider relocating to Nebraska, if such out-of-hospital emergency  
28 care provider is lawfully authorized to practice in another state that  
29 has adopted the licensing standards of the EMS Personnel Licensure  
30 Interstate Compact. Such temporary licensure shall be valid for one year  
31 or until a license is issued and shall not be subject to renewal. The

1    requirements of this subdivision do not apply to a temporary license  
2    issued as provided in section 38-129.01;

3        (4) (3) Set standards for the licensure of basic life support  
4    services and advanced life support services. The rules and regulations  
5    providing for licensure shall include standards and requirements for:  
6    Vehicles, equipment, maintenance, sanitation, inspections, personnel,  
7    training, medical direction, records maintenance, practices and  
8    procedures to be provided by employees or members of each classification  
9    of service, and other criteria for licensure established by the board;

10       (5) (4) Authorize emergency medical services to provide differing  
11    practices and procedures depending upon the qualifications of out-of-  
12   hospital emergency care providers available at the time of service  
13    delivery. No emergency medical service shall be licensed to provide  
14    practices or procedures without the use of personnel licensed to provide  
15    the practices or procedures;

16       (6) (5) Authorize out-of-hospital emergency care providers to  
17    perform any practice or procedure which they are authorized to perform  
18    with an emergency medical service other than the service with which they  
19    are affiliated when requested by the other service and when the patient  
20    for whom they are to render services is in danger of loss of life;

21       (7) (6) Provide for the approval of training agencies and establish  
22    minimum standards for services provided by training agencies;

23       (8) (7) Provide for the minimum qualifications of a physician  
24    medical director in addition to the licensure required by section  
25    38-1212;

26       (9) (8) Provide for the use of physician medical directors,  
27    qualified physician surrogates, model protocols, standing orders,  
28    operating procedures, and guidelines which may be necessary or  
29    appropriate to carry out the purposes of the Emergency Medical Services  
30   Practice Act. The model protocols, standing orders, operating procedures,  
31   and guidelines may be modified by the physician medical director for use

1 by any out-of-hospital emergency care provider or emergency medical  
2 service before or after adoption;

3 ~~(10) (9)~~ Establish criteria for approval of organizations issuing  
4 cardiopulmonary resuscitation certification which shall include criteria  
5 for instructors, establishment of certification periods and minimum  
6 curricula, and other aspects of training and certification;

7 ~~(11) (10)~~ Establish renewal and reinstatement requirements for out-  
8 of-hospital emergency care providers and emergency medical services and  
9 establish continuing competency requirements. Continuing education is  
10 sufficient to meet continuing competency requirements. The requirements  
11 may also include, but not be limited to, one or more of the continuing  
12 competency activities listed in section 38-145 which a licensed person  
13 may select as an alternative to continuing education. The reinstatement  
14 requirements for out-of-hospital emergency care providers shall allow  
15 reinstatement at the same or any lower level of licensure for which the  
16 out-of-hospital emergency care provider is determined to be qualified;

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

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

24 (13) Establish criteria for emergency medical technicians-  
25 intermediate, advanced emergency medical technicians, emergency medical  
26 ~~technicians paramedic~~, or paramedics performing activities  
27 within their scope of practice at a hospital or health clinic under  
28 subsection (3) of section 38-1224. Such criteria shall include, but not  
29 be limited to, : (a) Requirements for the orientation of registered  
30 nurses, physician assistants, and physicians involved in the supervision  
31 of such personnel; (b) supervisory and training requirements for the

1 physician medical director or other person in charge of the medical staff  
2 at such hospital or health clinic; and (c) a requirement that such  
3 activities shall only be performed at the discretion of, and with the  
4 approval of, the governing authority of such hospital or health clinic.  
5 For purposes of this subdivision, health clinic has the definition found  
6 in section 71-416 and hospital has the definition found in section  
7 71-419; and

8 (14) Establish model protocols for compliance with the Stroke System  
9 of Care Act by an emergency medical service and an out-of-hospital  
10 emergency care provider.; and

11 (15) Establish criteria and requirements for emergency medical  
12 technicians intermediate to renew licenses issued prior to September 1,  
13 2010, and continue to practice after such classification has otherwise  
14 terminated under subdivision (1) of this section. The rules and  
15 regulations shall include the qualifications necessary to renew emergency  
16 medical technicians intermediate licenses after September 1, 2010, the  
17 practices and procedures authorized for persons holding and renewing such  
18 licenses, and the renewal and reinstatement requirements for holders of  
19 such licenses.

20 Sec. 21. Section 38-1218, Revised Statutes Supplement, 2017, is  
21 amended to read:

22 38-1218 (1) The Legislature adopts all parts of the United States  
23 Department of Transportation curricula, including appendices, and skills  
24 as the training requirements and permitted practices and procedures for  
25 the licensure classifications listed in subdivision (1)(a) of section  
26 38-1217 until modified by the board by rule and regulation. The  
27 Legislature adopts the United States Department of Transportation  
28 National Emergency Medical Services Education Standards and the National  
29 Emergency Medical Services Scope of Practice for the licensure  
30 classifications listed in subdivision (1)(b) of section 38-1217 until  
31 modified by the board by rule and regulation. The board may approve

1 curricula for the licensure classifications listed in the Emergency  
2 Medical Services Practice Act subdivision (1) of section 38-1217.

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

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

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

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

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

20 (3) An applicant for licensure for a licensure classification listed  
21 in subdivision (1) (1)(b) of section 38-1217 who is a military spouse may  
22 apply for a temporary license as provided in section 38-129.01.

23 Sec. 22. The board shall review decisions of the Interstate  
24 Commission for Emergency Medical Services Personnel Practice established  
25 pursuant to the EMS Personnel Licensure Interstate Compact. Upon approval  
26 by the commission of any action that will have the result of increasing  
27 the cost to the state for membership in the compact, the board may  
28 recommend to the Legislature that Nebraska withdraw from the compact.

29 Sec. 23. Section 38-1219, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 38-1219 The department, with the recommendation of the board, shall

1 adopt and promulgate rules and regulations necessary to:  
2       (1) Administer the Emergency Medical Services Practice Act;  
3       (2) ~~Provide for curricula which will allow out-of-hospital emergency~~  
4 ~~care providers and users of automated external defibrillators as defined~~  
5 ~~in section 71-51,102 to be trained for the delivery of practices and~~  
6 ~~procedures in units of limited subject matter which will encourage~~  
7 ~~continued development of abilities and use of such abilities through~~  
8 ~~additional authorized practices and procedures;~~

9       (2) ~~(3)~~ Establish procedures and requirements for applications for  
10 licensure, renewal, and reinstatement in any of the licensure  
11 classifications created pursuant to the Emergency Medical Services  
12 Practice Act; ~~, including provisions for issuing an emergency medical~~  
13 ~~responder license to a licensee renewing his or her first responder~~  
14 ~~license after September 1, 2010, and for issuing a paramedic license to a~~  
15 ~~licensee renewing his or her emergency medical technician-paramedic~~  
16 ~~license after September 1, 2010; and~~

17       (3) ~~(4)~~ Provide for the inspection, review, and termination of  
18 approval of training agencies. All training for licensure shall be  
19 provided through an approved training agency; and -

20       (4) Provide for the inspection, review, and termination of basic  
21 life support emergency medical services and advanced life support  
22 emergency medical services.

23       Sec. 24. Section 38-1221, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25       38-1221   (1) To be eligible for a license under the Emergency  
26 Medical Services Practice Act, an individual shall have attained the age  
27 of eighteen years and met the requirements established in accordance with  
28 subdivision (1), (2), or (15) of section 38-1217.

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

31       (3) An individual holding a certificate under the Emergency Medical

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

7 Sec. 25. Section 38-1224, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 38-1224 (1) An out-of-hospital emergency care provider other than a  
10 first responder or an emergency medical responder as classified under  
11 section 38-1217 may not assume the duties incident to the title or  
12 practice the skills of an out-of-hospital emergency care provider unless  
13 he or she (a) is acting under the supervision of a licensed health care  
14 practitioner or under the direction of a registered nurse and (b) is  
15 employed by or serving as a volunteer member of an emergency medical  
16 service, a hospital, or a health clinic licensed by the department.

17 (2) An out-of-hospital emergency care provider may only practice the  
18 skills he or she is authorized to employ and which are covered by the  
19 license issued to such provider pursuant to the Emergency Medical  
20 Services Practice Act or as authorized pursuant to the EMS Personnel  
21 Licensure Interstate Compact.

22 (3) For purposes of this section, licensed health care practitioner  
23 means (a) a physician medical director or physician surrogate for  
24 purposes of supervision of an out-of-hospital emergency care provider for  
25 an emergency medical service or (b) a physician, a physician assistant,  
26 or an advance practice registered nurse for purposes of supervision of an  
27 out-of-hospital emergency care provider for a hospital or health clinic.  
28 A registered nurse may direct an out-of-hospital emergency care provider  
29 in a hospital or health clinic.

30 (3) An emergency medical technician-intermediate, an emergency  
31 medical technician-paramedic, an advanced emergency medical technician,

1    or a paramedic may volunteer or be employed at a hospital as defined in  
2    section 71-419 or a health clinic as defined in section 71-416 to perform  
3    activities within his or her scope of practice within such hospital or  
4    health clinic under the supervision of a registered nurse, a physician  
5    assistant, or a physician. Such activities shall be performed in a manner  
6    established in rules and regulations adopted and promulgated by the  
7    department, with the recommendation of the board.

8       Sec. 26. Section 38-1225, Reissue Revised Statutes of Nebraska, is  
9    amended to read:

10       38-1225 (1) No patient data received or recorded by an emergency  
11    medical service or an out-of-hospital emergency care provider shall be  
12    divulged, made public, or released by an emergency medical service or an  
13    out-of-hospital emergency care provider, except that patient data may be  
14    released for purposes of treatment, payment, and other health care  
15    operations as defined and permitted under the federal Health Insurance  
16    Portability and Accountability Act of 1996, as such act existed on  
17    January 1, 2018 2007, or as otherwise permitted by law. Such data shall  
18    be provided to the department for public health purposes pursuant to  
19    rules and regulations of the department. For purposes of this section,  
20    patient data means any data received or recorded as part of the records  
21    maintenance requirements of the Emergency Medical Services Practice Act.

22       (2) Patient data received by the department shall be confidential  
23    with release only (a) in aggregate data reports created by the department  
24    on a periodic basis or at the request of an individual, (b) as case-  
25    specific data to approved researchers for specific research projects, (c)  
26    as protected health information to a public health authority, as such  
27    terms are defined under the federal Health Insurance Portability and  
28    Accountability Act of 1996, as such act existed on January 1, 2018 2007,  
29    and (d) as protected health information, as defined under the federal  
30    Health Insurance Portability and Accountability Act of 1996, as such act  
31    existed on January 1, 2018 2007, to an emergency medical service, to an

1 out-of-hospital emergency care provider, or to a licensed health care  
2 facility for purposes of treatment. A record may be shared with the  
3 emergency medical service or out-of-hospital emergency care provider that  
4 reported that specific record. Approved researchers shall maintain the  
5 confidentiality of the data, and researchers shall be approved in the  
6 same manner as described in section 81-666. Aggregate reports shall be  
7 public documents.

8 (3) No civil or criminal liability of any kind or character for  
9 damages or other relief or penalty shall arise or be enforced against any  
10 person or organization by reason of having provided patient data pursuant  
11 to this section.

12 Sec. 27. Section 38-1229, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 38-1229 The department, ~~with the recommendation of the board,~~ may  
15 issue a license to any individual who has a current certificate from the  
16 National Registry of Emergency Medical Technicians. ~~The level of such~~  
17 ~~licensure shall be determined by the board.~~

18 Sec. 28. Section 38-1232, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 38-1232 (1) No out-of-hospital emergency care provider, physician  
21 assistant, registered nurse, or licensed practical nurse who provides  
22 public emergency care shall be liable in any civil action to respond in  
23 damages as a result of his or her acts of commission or omission arising  
24 out of and in the course of his or her rendering in good faith any such  
25 care. Nothing in this subsection shall be deemed to grant any such  
26 immunity for liability arising out of the operation of any motor vehicle,  
27 aircraft, or boat or while such person was impaired by alcoholic liquor  
28 or any controlled substance enumerated in section 28-405 in connection  
29 with such care, nor shall immunity apply to any person causing damage or  
30 injury by his or her willful, wanton, or grossly negligent act of  
31 commission or omission.

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

9           (3) No physician medical director shall incur any liability by  
10 reason of his or her use of any unmodified protocol, standing order,  
11 operating procedure, or guideline provided by the board pursuant to  
12 subdivision (9) ~~(8)~~ of section 38-1217.

13           Sec. 29. Section 38-1237, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15           38-1237 It shall be unlawful for any person who has not been  
16 licensed pursuant to the Emergency Medical Services Practice Act or  
17 authorized pursuant to the EMS Personnel Licensure Interstate Compact to  
18 hold himself or herself out as an out-of-hospital emergency care  
19 provider, to use any other term to indicate or imply that he or she is an  
20 out-of-hospital emergency care provider, or to act as such a provider  
21 without a license therefor. It shall be unlawful for any person to  
22 operate a training agency for the initial training or renewal or  
23 reinstatement of licensure of out-of-hospital emergency care providers  
24 unless the training agency is approved pursuant to rules and regulations  
25 of the department board. It shall be unlawful for any person to operate  
26 an emergency medical service unless such service is licensed.

27           Sec. 30. Section 38-2025, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29           38-2025 The following classes of persons shall not be construed to  
30 be engaged in the unauthorized practice of medicine:

31           (1) Persons rendering gratuitous services in cases of emergency;

1           (2) Persons administering ordinary household remedies;  
2           (3) The members of any church practicing its religious tenets,  
3 except that they shall not prescribe or administer drugs or medicines,  
4 perform surgical or physical operations, nor assume the title of or hold  
5 themselves out to be physicians, and such members shall not be exempt  
6 from the quarantine laws of this state;

7           (4) Students of medicine who are studying in an accredited school or  
8 college of medicine and who gratuitously prescribe for and treat disease  
9 under the supervision of a licensed physician;

10          (5) Physicians who serve in the armed forces of the United States or  
11 the United States Public Health Service or who are employed by the United  
12 States Department of Veterans Affairs or other federal agencies, if their  
13 practice is limited to that service or employment;

14          (6) Physicians who are licensed in good standing to practice  
15 medicine under the laws of another state when incidentally called into  
16 this state or contacted via electronic or other medium for consultation  
17 with a physician licensed in this state. For purposes of this  
18 subdivision, consultation means evaluating the medical data of the  
19 patient as provided by the treating physician and rendering a  
20 recommendation to such treating physician as to the method of treatment  
21 or analysis of the data. The interpretation of a radiological image by a  
22 physician who specializes in radiology is not a consultation;

23          (7) Physicians who are licensed in good standing to practice  
24 medicine in another state but who, from such other state, order  
25 diagnostic or therapeutic services on an irregular or occasional basis,  
26 to be provided to an individual in this state, if such physicians do not  
27 maintain and are not furnished for regular use within this state any  
28 office or other place for the rendering of professional services or the  
29 receipt of calls;

30          (8) Physicians who are licensed in good standing to practice  
31 medicine in another state and who, on an irregular and occasional basis,

1 are granted temporary hospital privileges to practice medicine and  
2 surgery at a hospital or other medical facility licensed in this state;

3 (9) Persons providing or instructing as to use of braces, prosthetic  
4 appliances, crutches, contact lenses, and other lenses and devices  
5 prescribed by a physician licensed to practice medicine while working  
6 under the direction of such physician;

7 (10) Dentists practicing their profession when licensed and  
8 practicing in accordance with the Dentistry Practice Act;

9 (11) Optometrists practicing their profession when licensed and  
10 practicing under and in accordance with the Optometry Practice Act;

11 (12) Osteopathic physicians practicing their profession if licensed  
12 and practicing under and in accordance with sections 38-2029 to 38-2033;

13 (13) Chiropractors practicing their profession if licensed and  
14 practicing under the Chiropractic Practice Act;

15 (14) Podiatrists practicing their profession when licensed to  
16 practice in this state and practicing under and in accordance with the  
17 Podiatry Practice Act;

18 (15) Psychologists practicing their profession when licensed to  
19 practice in this state and practicing under and in accordance with the  
20 Psychology Interjurisdictional Compact or the Psychology Practice Act;

21 (16) Advanced practice registered nurses practicing in their  
22 clinical specialty areas when licensed under the Advanced Practice  
23 Registered Nurse Practice Act and practicing under and in accordance with  
24 their respective practice acts;

25 (17) Surgical first assistants practicing in accordance with the  
26 Surgical First Assistant Practice Act;

27 (18) Persons licensed or certified under the laws of this state to  
28 practice a limited field of the healing art, not specifically named in  
29 this section, when confining themselves strictly to the field for which  
30 they are licensed or certified, not assuming the title of physician,  
31 surgeon, or physician and surgeon, and not professing or holding

1 themselves out as qualified to prescribe drugs in any form or to perform  
2 operative surgery;

3 (19) Persons obtaining blood specimens while working under an order  
4 of or protocols and procedures approved by a physician, registered nurse,  
5 or other independent health care practitioner licensed to practice by the  
6 state if the scope of practice of that practitioner permits the  
7 practitioner to obtain blood specimens; and

8 (20) Physicians who are licensed in good standing to practice  
9 medicine under the laws of another state or jurisdiction who accompany an  
10 athletic team or organization into this state for an event from the state  
11 or jurisdiction of licensure. This exemption is limited to treatment  
12 provided to such athletic team or organization while present in Nebraska;  
13 and

14 (21) (20) Other trained persons employed by a licensed health care  
15 facility or health care service defined in the Health Care Facility  
16 Licensure Act or clinical laboratory certified pursuant to the federal  
17 Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII  
18 or XIX of the federal Social Security Act to withdraw human blood for  
19 scientific or medical purposes.

20 Any person who has held or applied for a license to practice  
21 medicine and surgery in this state, and such license or application has  
22 been denied or such license has been refused renewal or disciplined by  
23 order of limitation, suspension, or revocation, shall be ineligible for  
24 the exceptions described in subdivisions (5) through (8) of this section  
25 until such license or application is granted or such license is renewed  
26 or reinstated. Every act or practice falling within the practice of  
27 medicine and surgery as defined in section 38-2024 and not specially  
28 excepted in this section shall constitute the practice of medicine and  
29 surgery and may be performed in this state only by those licensed by law  
30 to practice medicine in Nebraska.

31 Sec. 31. Section 38-2026, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2       38-2026 Except as otherwise provided in sections 38-2026.01 and  
3 38-2027, each applicant for a license to practice medicine and surgery  
4 shall:

5           (1)(a) Present proof that he or she is a graduate of an accredited  
6 school or college of medicine, (b) if a foreign medical graduate, provide  
7 a copy of a permanent certificate issued by the Educational Commission  
8 for ~~on~~ Foreign Medical Graduates that is currently effective and relates  
9 to such applicant or provide such credentials as are necessary to certify  
10 that such foreign medical graduate has successfully passed the Visa  
11 Qualifying Examination or its successor or equivalent examination  
12 required by the United States Department of Health and Human Services and  
13 the United States Citizenship and Immigration Services, or (c) if a  
14 graduate of a foreign medical school who has successfully completed a  
15 program of American medical training designated as the Fifth Pathway and  
16 who additionally has successfully passed the Educational Commission for  
17 ~~on~~ Foreign Medical Graduates examination but has not yet received the  
18 permanent certificate attesting to the same, provide such credentials as  
19 certify the same to the Division of Public Health of the Department of  
20 Health and Human Services;

21           (2) Present proof that he or she has served at least one year of  
22 graduate medical education approved by the board or, if a foreign medical  
23 graduate, present proof that he or she has served at least two ~~three~~  
24 years of graduate medical education approved by the board;

25           (3) Pass a licensing examination approved by the board covering  
26 appropriate medical subjects; and

27           (4) Present proof satisfactory to the department that he or she,  
28 within the three years immediately preceding the application for  
29 licensure, (a) has been in the active practice of the profession of  
30 medicine and surgery in some other state, a territory, the District of  
31 Columbia, or Canada for a period of one year, (b) has had at least one

1 year of graduate medical education as described in subdivision (2) of  
2 this section, (c) has completed continuing education in medicine and  
3 surgery approved by the board, (d) has completed a refresher course in  
4 medicine and surgery approved by the board, or (e) has completed the  
5 special purposes examination approved by the board.

6 Sec. 32. Section 38-2104, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8       38-2104    (1) Approved educational program means a program of  
9 education and training accredited by an agency listed in subsection (2)  
10 of this section or approved by the board. Such approval may be based on  
11 the program's accreditation by an accrediting agency with requirements  
12 similar to an agency listed in subsection (2) of this section or on  
13 standards established by the board in the manner and form provided in  
14 section 38-133.

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

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

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

21       (c) The Council on Rehabilitation Education;

22       (d) The Council on Social Work Education; or

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

26       Sec. 33. Section 38-2112, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28       38-2112 Consultation means a professional collaborative relationship  
29 between a licensed mental health practitioner and a consultant who is a  
30 psychologist licensed to engage in the practice of psychology in this  
31 state as provided in section 38-3111 or as provided in similar provisions

1    of the Psychology Interjurisdictional Compact, a qualified physician, or  
2    a licensed independent mental health practitioner in which (1) the  
3    consultant makes a diagnosis based on information supplied by the  
4    licensed mental health practitioner and any additional assessment deemed  
5    necessary by the consultant and (2) the consultant and the licensed  
6    mental health practitioner jointly develop a treatment plan which  
7    indicates the responsibility of each professional for implementing  
8    elements of the plan, updating the plan, and assessing the client's  
9    progress.

10       Sec. 34. Section 38-2115, Reissue Revised Statutes of Nebraska, is  
11    amended to read:

12           38-2115 (1) Mental health practice means the provision of treatment,  
13    assessment, psychotherapy, counseling, or equivalent activities to  
14    individuals, couples, families, or groups for behavioral, cognitive,  
15    social, mental, or emotional disorders, including interpersonal or  
16    personal situations.

17           (2) Mental health practice does not include:

18              (a) The practice of psychology or medicine;  
19              (b) Prescribing drugs or electroconvulsive therapy;  
20              (c) Treating physical disease, injury, or deformity;  
21              (d) Diagnosing major mental illness or disorder except in  
22    consultation with a qualified physician, a psychologist licensed to  
23    engage in the practice of psychology in this state as provided in section  
24    38-3111 or as provided in similar provisions of the Psychology  
25    Interjurisdictional Compact, or a licensed independent mental health  
26    practitioner;

27              (e) Measuring personality or intelligence for the purpose of  
28    diagnosis or treatment planning;

29              (f) Using psychotherapy with individuals suspected of having major  
30    mental or emotional disorders except in consultation with a qualified  
31    physician, a licensed psychologist, or a licensed independent mental

1    health practitioner; or

2        (g) Using psychotherapy to treat the concomitants of organic illness  
3    except in consultation with a qualified physician or licensed  
4    psychologist.

5        (3) Mental health practice includes the initial assessment of  
6    organic mental or emotional disorders for the purpose of referral or  
7    consultation.

8        (4) Nothing in sections 38-2114, 38-2118, and 38-2119 shall be  
9    deemed to constitute authorization to engage in activities beyond those  
10   described in this section. Persons certified under the Mental Health  
11   Practice Act but not licensed under section 38-2122 shall not engage in  
12   mental health practice.

13           Sec. 35. Section 38-2117, Reissue Revised Statutes of Nebraska, is  
14   amended to read:

15           38-2117 Mental health program means an approved educational program  
16   in a field such as, but not limited to, social work, professional  
17   counseling, marriage and family therapy, human development, psychology,  
18   or family relations, the content of which contains an emphasis on  
19   therapeutic mental health and course work in psychotherapy and the  
20   assessment of mental disorders.

21           Sec. 36. Section 38-2122, Reissue Revised Statutes of Nebraska, is  
22   amended to read:

23           38-2122 A person shall be qualified to be a licensed mental health  
24   practitioner if he or she:

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

1 physician, a licensed psychologist, or a licensed mental health  
2 practitioner;

3 (2) Has successfully completed three thousand hours of supervised  
4 experience in mental health practice of which fifteen hundred hours were  
5 in direct client contact in a setting where mental health services were  
6 being offered and the remaining fifteen hundred hours included, but were  
7 not limited to, review of client records, case conferences, direct  
8 observation, and video observation. For purposes of this subdivision,  
9 supervised means monitored by a qualified physician, a licensed clinical  
10 psychologist, or a certified master social worker, certified professional  
11 counselor, or marriage and family therapist qualified for certification  
12 on September 1, 1994, for any hours completed before such date or by a  
13 qualified physician, a psychologist licensed to engage in the practice of  
14 psychology, or a licensed mental health practitioner for any hours  
15 completed after such date, including evaluative face-to-face contact for  
16 a minimum of one hour per week. Such three thousand hours shall be  
17 accumulated after completion of the master's degree, doctoral degree, or  
18 equivalent of the master's or doctorate degree and during the five years  
19 immediately preceding the application for licensure; and

20 (3) Has satisfactorily passed an examination approved by the board.  
21 An individual who by reason of educational background is eligible for  
22 certification as a certified master social worker, a certified  
23 professional counselor, or a certified marriage and family therapist  
24 shall take and pass a certification examination approved by the board  
25 before becoming licensed as a mental health practitioner.

26 Sec. 37. Section 38-2123, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 38-2123 (1) A person who needs to obtain the required three thousand  
29 hours of supervised experience in mental health practice as specified in  
30 section 38-2122 to qualify for a mental health practitioner license shall  
31 obtain a provisional mental health practitioner license. To qualify for a

1       provisional mental health practitioner license, such person shall:  
2           (a) Have a master's or doctorate degree, a doctoral degree, or the  
3       equivalent of a master's degree, as determined by the board, that  
4       consists of course work and training which was primarily therapeutic  
5       mental health in content and included a practicum or internship and was  
6       from a mental health an approved educational program as specified in such  
7       section 38-2122;

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

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

11           (2) The rules and regulations approved by the board and adopted and  
12       promulgated by the department shall not require that the applicant have a  
13       supervisor in place at the time of application for a provisional mental  
14       health practitioner license.

15           (3) (2) A provisional mental health practitioner license shall  
16       expire upon receipt of licensure as a mental health practitioner or five  
17       years after the date of issuance, whichever comes first.

18           (4) (3) A person who holds a provisional mental health practitioner  
19       license shall inform all clients that he or she holds a provisional  
20       license and is practicing mental health under supervision and shall  
21       identify the supervisor. Failure to make such disclosure is a ground for  
22       discipline as set forth in section 38-2139.

23       Sec. 38. Section 38-2124, Reissue Revised Statutes of Nebraska, is  
24       amended to read:

25       38-2124 (1) No person shall hold himself or herself out as an  
26       independent mental health practitioner unless he or she is licensed as  
27       such by the department. A person shall be qualified to be a licensed  
28       independent mental health practitioner if he or she:

29           (a)(i)(A) Graduated with a master's or doctoral degree from an  
30       educational program which is accredited, at the time of graduation or  
31       within four years after graduation, by the Council for Accreditation of

1      Counseling and Related Educational Programs, the Commission on  
2      Accreditation for Marriage and Family Therapy Education, or the Council  
3      on Social Work Education or (B) graduated with a master's or doctoral  
4      degree from an educational program deemed by the board to be equivalent  
5      in didactic content and supervised clinical experience to an accredited  
6      program;

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

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

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

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

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

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

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

3           Sec. 39. Section 38-2125, Revised Statutes Supplement, 2017, is  
4 amended to read:

5           38-2125 The department, with the recommendation of the board, may  
6 issue a license based on licensure in another jurisdiction to an  
7 individual who (1) meets the licensure requirements of the Mental Health  
8 Practice Act or substantially equivalent requirements as determined by  
9 the department, with the recommendation of the board, or (2) has been in  
10 active practice in the appropriate discipline for at least five years  
11 following initial licensure or certification in another jurisdiction and  
12 has passed the Nebraska jurisprudence examination. An applicant for a  
13 license who is a military spouse may apply for a temporary license as  
14 provided in section 38-129.01.

15          Sec. 40. Section 38-2518, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17          38-2518 (1) An applicant applying for a license as an occupational  
18 therapist shall show to the satisfaction of the department that he or  
19 she:

20           (a) Has successfully completed the academic requirements of an  
21 educational program in occupational therapy recognized by the department  
22 and accredited by a nationally recognized medical association or  
23 nationally recognized occupational therapy association;

24           (b) Has successfully completed a period of supervised fieldwork  
25 experience at an educational institution approved by the department and  
26 where the applicant's academic work was completed or which is part of a  
27 training program approved by such educational institution. A minimum of  
28 six months of supervised fieldwork experience shall be required for an  
29 occupational therapist; and

30           (c) Has passed an examination as provided in section 38-2520.

31           (2) In the case of an applicant who has been trained as an

1     occupational therapist in a foreign country, the applicant shall:  
2         (a) Present documentation of completion of an educational program in  
3     occupational therapy that is substantially equivalent to an approved  
4     program accredited by the Accreditation Council for Occupational Therapy  
5     Education or by an equivalent accrediting agency as determined by the  
6     board;

7         (b) Present proof of proficiency in the English language; and  
8         (c) Have passed an examination as provided in section 38-2520.

9         (3) (2) Residency in this state shall not be a requirement of  
10    licensure. A corporation, partnership, limited liability company, or  
11    association shall not be licensed as an occupational therapist pursuant  
12    to the Occupational Therapy Practice Act.

13           Sec. 41. Section 38-2519, Reissue Revised Statutes of Nebraska, is  
14    amended to read:

15           38-2519 (1) An applicant applying for a license as an occupational  
16    therapy assistant shall show to the satisfaction of the department that  
17    he or she:

18             (a) Has successfully completed the academic requirements of an  
19    educational program in occupational therapy recognized by the department  
20    and accredited by a nationally recognized medical association or  
21    nationally recognized occupational therapy association;

22             (b) Has successfully completed a period of supervised fieldwork  
23    experience at an educational institution approved by the department and  
24    where the applicant's academic work was completed or which is part of a  
25    training program approved by such educational institution. A minimum of  
26    two months of supervised fieldwork experience shall be required for an  
27    occupational therapy assistant; and

28             (c) Has passed an examination as provided in section 38-2520.

29             (2) In the case of an applicant who has been trained as an  
30     occupational therapy assistant in a foreign country, the applicant shall:

31             (a) Present documentation of completion of an educational program

1   for occupational therapy assistants that is substantially equivalent to  
2   an approved program accredited by the Accreditation Council for  
3   Occupational Therapy Education or by an equivalent accrediting agency as  
4   determined by the board;

5       (b) Present proof of proficiency in the English language; and

6       (c) Have passed an examination as provided in section 38-2520.

7       (3) (2) Residency in this state shall not be a requirement of  
8   licensure as an occupational therapy assistant. A corporation,  
9   partnership, limited liability company, or association shall not be  
10   licensed as an occupational therapy assistant pursuant to the  
11   Occupational Therapy Practice Act.

12           Sec. 42. Section 38-2521, Reissue Revised Statutes of Nebraska, is  
13   amended to read:

14           38-2521 The department, with the recommendation of the board, may  
15   waive continuing competency requirements, in part or in total, for any  
16   two-year licensing period when a licensee submits documentation that  
17   circumstances beyond his or her control prevented completion of such  
18   requirements as provided in section 38-146. In addition to circumstances  
19   determined by the department to be beyond the licensee's control pursuant  
20   to such section, such circumstances shall include situations in which:

21       (1) The licensee holds a Nebraska license but does not reside or  
22   practice in Nebraska;

23       (2) The licensee has submitted proof that he or she was suffering  
24   from a serious or disabling illness or physical disability which  
25   prevented completion of the required continuing competency activities  
26   during the twenty-four months preceding the license renewal date; and

27       (3) The licensee has successfully completed two or more semester  
28   hours of formal credit instruction biennially offered by a an accredited  
29   school or college approved by the board which contributes to meeting the  
30   requirements of an advanced degree in a postgraduate program relating to  
31   occupational therapy.

1        Sec. 43. Section 38-2826.01, Reissue Revised Statutes of Nebraska,  
2    is amended to read:

3        38-2826.01 Long-term care facility means an intermediate care  
4    facility, an intermediate care facility for persons with developmental  
5    disabilities, a long-term care hospital, a mental health substance use  
6    treatment center, a nursing facility, or a skilled nursing facility, as  
7    such terms are defined in the Health Care Facility Licensure Act.

8        Sec. 44. Section 38-3101, Reissue Revised Statutes of Nebraska, is  
9    amended to read:

10       38-3101 Sections 38-3101 to 38-3132 and section 46 of this act shall  
11    be known and may be cited as the Psychology Practice Act.

12       Sec. 45. Section 38-3111, Reissue Revised Statutes of Nebraska, is  
13    amended to read:

14       38-3111 (1) Unless otherwise expressly stated, references to  
15    licensed psychologists in the Nebraska Mental Health Commitment Act, in  
16    the Psychology Practice Act, in the Sex Offender Commitment Act, and in  
17    section 44-513 means only psychologists licensed to practice psychology  
18    in this state under section 38-3114 or under similar provisions of the  
19    Psychology Interjurisdictional Compact and does not mean persons holding  
20    a special license under section 38-3116 or holding a provisional license  
21    under the Psychology Practice Act.

22       (2) Any reference to a person certified to practice clinical  
23    psychology under the law in effect immediately prior to September 1,  
24    1994, and any equivalent reference under the law of another jurisdiction,  
25    including, but not limited to, certified clinical psychologist, health  
26    care practitioner in psychology, or certified health care provider, shall  
27    be construed to refer to a psychologist licensed under the Uniform  
28    Credentialing Act except for persons licensed under section 38-3116 or  
29    holding a provisional license under the Psychology Practice Act.

30       Sec. 46. The chairperson of the board or his or her designee shall  
31    serve as the administrator of the Psychology Interjurisdictional Compact

1   for the State of Nebraska. The administrator shall give notice of  
2   withdrawal to the executive heads of all other party states within thirty  
3   days after the effective date of any statute repealing the compact  
4   enacted by the Legislature pursuant to Article XIII of the compact.

5       Sec. 47. Section 44-772, Reissue Revised Statutes of Nebraska, is  
6   amended to read:

7           44-772 Substance abuse treatment center shall mean an institution  
8   licensed as a substance abuse treatment center by the Department of  
9   Health and Human Services ~~and defined in section 71-430~~, which provides a  
10   program for the inpatient or outpatient treatment of alcoholism pursuant  
11   to a written treatment plan approved and monitored by a physician and  
12   which is affiliated with a hospital under a contractual agreement with an  
13   established system for patient referral.

14       Sec. 48. Section 44-792, Reissue Revised Statutes of Nebraska, is  
15   amended to read:

16           44-792 For purposes of sections 44-791 to 44-795:

17           (1) Health insurance plan means (a) any group sickness and accident  
18   insurance policy, group health maintenance organization contract, or  
19   group subscriber contract delivered, issued for delivery, or renewed in  
20   this state and (b) any self-funded employee benefit plan to the extent  
21   not preempted by federal law. Health insurance plan includes any group  
22   policy, group contract, or group plan offered or administered by the  
23   state or its political subdivisions. Health insurance plan does not  
24   include group policies providing coverage for a specified disease,  
25   accident-only coverage, hospital indemnity coverage, disability income  
26   coverage, medicare supplement coverage, long-term care coverage, or other  
27   limited-benefit coverage. Health insurance plan does not include any  
28   policy, contract, or plan covering an employer group that covers fewer  
29   than fifteen employees;

30           (2) Mental health condition means any condition or disorder  
31   involving mental illness that falls under any of the diagnostic

1 categories listed in the Mental Disorders Section of the International  
2 Classification of Disease;

3 (3) Mental health professional means (a) a practicing physician  
4 licensed to practice medicine in this state under the Medicine and  
5 Surgery Practice Act, (b) a practicing psychologist licensed to engage in  
6 the practice of psychology in this state as provided in section 38-3111  
7 or as provided in similar provisions of the Psychology  
8 Interjurisdictional Compact, or (c) a practicing mental health  
9 professional licensed or certified in this state as provided in the  
10 Mental Health Practice Act;

11 (4) Rate, term, or condition means lifetime limits, annual payment  
12 limits, and inpatient or outpatient service limits. Rate, term, or  
13 condition does not include any deductibles, copayments, or coinsurance;  
14 and

15 (5)(a) Serious mental illness means, prior to January 1, 2002, (i)  
16 schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder,  
17 (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive  
18 compulsive disorder; and

19 (b) Serious mental illness means, on and after January 1, 2002, any  
20 mental health condition that current medical science affirms is caused by  
21 a biological disorder of the brain and that substantially limits the life  
22 activities of the person with the serious mental illness. Serious mental  
23 illness includes, but is not limited to (i) schizophrenia, (ii)  
24 schizoaffective disorder, (iii) delusional disorder, (iv) bipolar  
25 affective disorder, (v) major depression, and (vi) obsessive compulsive  
26 disorder.

27 Sec. 49. Section 69-2429, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 69-2429 For purposes of the Concealed Handgun Permit Act:

30 (1) Concealed handgun means the handgun is totally hidden from view.  
31 If any part of the handgun is capable of being seen, it is not a

1 concealed handgun;

2 (2) Emergency services personnel means a volunteer or paid  
3 firefighter or rescue squad member or a person licensed to provide  
4 emergency medical services pursuant to the Emergency Medical Services  
5 Practice Act or authorized to provide emergency medical services pursuant  
6 to the EMS Personnel Licensure Interstate Compact;

7 (3) Handgun means any firearm with a barrel less than sixteen inches  
8 in length or any firearm designed to be held and fired by the use of a  
9 single hand;

10 (4) Peace officer means any town marshal, chief of police or local  
11 police officer, sheriff or deputy sheriff, the Superintendent of Law  
12 Enforcement and Public Safety, any officer of the Nebraska State Patrol,  
13 any member of the National Guard on active service by direction of the  
14 Governor during periods of emergency or civil disorder, any Game and  
15 Parks Commission conservation officer, and all other persons with similar  
16 authority to make arrests;

17 (5) Permitholder means an individual holding a current and valid  
18 permit to carry a concealed handgun issued pursuant to the Concealed  
19 Handgun Permit Act; and

20 (6) Proof of training means an original document or certified copy  
21 of a document, supplied by an applicant, that certifies that he or she  
22 either:

23 (a) Within the previous three years, has successfully completed a  
24 handgun training and safety course approved by the Nebraska State Patrol  
25 pursuant to section 69-2432; or

26 (b) Is a member of the active or reserve armed forces of the United  
27 States or a member of the National Guard and has had handgun training  
28 within the previous three years which meets the minimum safety and  
29 training requirements of section 69-2432.

30 Sec. 50. Section 71-401, Revised Statutes Supplement, 2017, is  
31 amended to read:

1       71-401 Sections 71-401 to 71-475 and sections 54 and 56 of this act  
2   shall be known and may be cited as the Health Care Facility Licensure  
3  Act.

4       Sec. 51. Section 71-403, Revised Statutes Cumulative Supplement,  
5  2016, is amended to read:

6       71-403 For purposes of the Health Care Facility Licensure Act,  
7  unless the context otherwise requires, the definitions found in sections  
8  71-404 to 71-431 and section 54 of this act shall apply.

9       Sec. 52. Section 71-413, Revised Statutes Cumulative Supplement,  
10 2016, is amended to read:

11       71-413 Health care facility means an ambulatory surgical center, an  
12 assisted-living facility, a center or group home for the developmentally  
13 disabled, a critical access hospital, a general acute hospital, a health  
14 clinic, a hospital, an intermediate care facility, an intermediate care  
15 facility for persons with developmental disabilities, a long-term care  
16 hospital, a mental health substance use treatment center, a nursing  
17 facility, a pharmacy, a psychiatric or mental hospital, a public health  
18 clinic, a rehabilitation hospital, or a skilled nursing facility, or a  
19 substance abuse treatment center.

20       Sec. 53. Section 71-423, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22       71-423 Mental health substance use treatment center means a facility  
23 where shelter, food, and counseling, supervision, diagnosis, treatment,  
24 care, rehabilitation, assessment, or related services professionally  
25 directed are provided for a period of more than twenty-four consecutive  
26 hours to persons residing at such facility who have a mental illness  
27 disease, disorder, or substance use disorder or both, with the intention  
28 of reducing or ameliorating the disorder or disorders or the effects of  
29 the disorder or disorders disability.

30       Sec. 54. Mental illness means a wide range of mental health  
31 disorders that affect mood, thinking, and behavior and can result in

1 significantly impaired judgment, behavior, capacity to recognize reality,  
2 or ability to address basic life necessities and requires care and  
3 treatment for health, safety, or recovery of the individual or for the  
4 safety of others.

5 Sec. 55. Section 71-430, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 71-430 Substance use disorder means a medical illness caused by  
8 repeat misuse of a substance or substances, characterized by clinically  
9 significant impairments in health, social function, and impaired control  
10 over substance use and diagnosed through assessing cognitive, behavioral,  
11 and psychological symptoms. Substance use disorders range from mild to  
12 severe and from temporary to chronic.

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

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

21 (3) For purposes of this section:

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

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

28 Sec. 56. A health care facility applying for a license as a mental  
29 health substance use treatment center shall designate whether the license  
30 is to be issued to provide services for mental health disorders, for  
31 substance use disorders, or for both mental health and substance use

1   disorders. A license issued to provide services for mental health  
2   disorders permits the facility to treat persons whose primary need is  
3   treatment for mental health disorders. A license issued to provide  
4   services for substance use disorders permits the facility to treat  
5   persons whose primary need is treatment for substance use disorders. A  
6   license issued to provide services for both mental health and substance  
7   use disorders permits the facility to treat persons with mental health  
8   disorders, substance use disorders, or both mental health disorders and  
9   substance use disorders.

10       Sec. 57. Section 71-474, Revised Statutes Cumulative Supplement,  
11 2016, is amended to read:

12       71-474 A person may not advertise to the public, by way of any  
13 medium, that a hospital is a comprehensive stroke center, a designated  
14 thrombectomy-capable stroke center, a primary stroke center, or an acute  
15 stroke-ready hospital unless the hospital is listed as such by the  
16 Department of Health and Human Services under the Stroke System of Care  
17 Act.

18       Sec. 58. Section 71-507, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20       71-507 For purposes of sections 71-507 to 71-513:

21       (1) Alternate facility means a facility other than a health care  
22 facility that receives a patient transported to the facility by an  
23 emergency services provider;

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

25       (3) Designated physician means the physician representing the  
26 emergency services provider as identified by name, address, and telephone  
27 number on the significant exposure report form. The designated physician  
28 shall serve as the contact for notification in the event an emergency  
29 services provider believes he or she has had significant exposure to an  
30 infectious disease or condition. Each emergency services provider shall  
31 designate a physician as provided in subsection (2) of section 71-509;

1           (4) Emergency services provider means an out-of-hospital emergency  
2 care provider licensed pursuant to the Emergency Medical Services  
3 Practice Act or authorized pursuant to the EMS Personnel Licensure  
4 Interstate Compact, a sheriff, a deputy sheriff, a police officer, a  
5 state highway patrol officer, a funeral director, a paid or volunteer  
6 firefighter, a school district employee, and a person rendering emergency  
7 care gratuitously as described in section 25-21,186;

8           (5) Funeral director means a person licensed under section 38-1414  
9 or an employee of such a person with responsibility for transport or  
10 handling of a deceased human;

11          (6) Funeral establishment means a business licensed under section  
12 38-1419;

13          (7) Health care facility has the meaning found in sections 71-419,  
14 71-420, 71-424, and 71-429 or any facility that receives patients of  
15 emergencies who are transported to the facility by emergency services  
16 providers;

17          (8) Infectious disease or condition means hepatitis B, hepatitis C,  
18 meningococcal meningitis, active pulmonary tuberculosis, human  
19 immunodeficiency virus, diphtheria, plague, hemorrhagic fevers, rabies,  
20 and such other diseases as the department may by rule and regulation  
21 specify;

22          (9) Patient means an individual who is sick, injured, wounded,  
23 deceased, or otherwise helpless or incapacitated;

24          (10) Patient's attending physician means the physician having the  
25 primary responsibility for the patient as indicated on the records of a  
26 health care facility;

27          (11) Provider agency means any law enforcement agency, fire  
28 department, emergency medical service, funeral establishment, or other  
29 entity which employs or directs emergency services providers or public  
30 safety officials;

31          (12) Public safety official means a sheriff, a deputy sheriff, a

1 police officer, a state highway patrol officer, a paid or volunteer  
2 firefighter, a school district employee, and any civilian law enforcement  
3 employee or volunteer performing his or her duties, other than those as  
4 an emergency services provider;

5 (13) Responsible person means an individual who has been designated  
6 by an alternate facility to carry out the facility's responsibilities  
7 under sections 71-507 to 71-513. A responsible person may be designated  
8 on a case-by-case basis;

9 (14) Significant exposure means a situation in which the body  
10 fluids, including blood, saliva, urine, respiratory secretions, or feces,  
11 of a patient or individual have entered the body of an emergency services  
12 provider or public safety official through a body opening including the  
13 mouth or nose, a mucous membrane, or a break in skin from cuts or  
14 abrasions, from a contaminated needlestick or scalpel, from intimate  
15 respiratory contact, or through any other situation when the patient's or  
16 individual's body fluids may have entered the emergency services  
17 provider's or public safety official's body or when an airborne pathogen  
18 may have been transmitted from the patient or individual to the emergency  
19 services provider or public safety official; and

20 (15) Significant exposure report form means the form used by the  
21 emergency services provider to document information necessary for  
22 notification of significant exposure to an infectious disease or  
23 condition.

24 Sec. 59. Section 71-906, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 71-906 Mental health professional means a person licensed to  
27 practice medicine and surgery or psychology in this state under the  
28 Psychology Interjurisdictional Compact or the Uniform Credentialing Act  
29 or an advanced practice registered nurse licensed under the Advanced  
30 Practice Registered Nurse Practice Act who has proof of current  
31 certification in a psychiatric or mental health specialty.

1        Sec. 60. Section 71-1908, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3            71-1908 (1) Sections 71-1908 to 71-1923 and section 62 of this act  
4 shall be known and may be cited as the Child Care Licensing Act.

5            (2) The Legislature finds that there is a present and growing need  
6 for quality child care programs and facilities. There is a need to  
7 establish and maintain licensure of persons providing such programs to  
8 ensure that such persons are competent and are using safe and adequate  
9 facilities. The Legislature further finds and declares that the  
10 development and supervision of programs are a matter of statewide concern  
11 and should be dealt with uniformly on the state and local levels. There  
12 is a need for cooperation among the various state and local agencies  
13 which impose standards on licensees, and there should be one agency which  
14 coordinates the enforcement of such standards and informs the Legislature  
15 about cooperation among the various agencies.

16          Sec. 61. Section 71-1913, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18            71-1913 (1) The department may request the State Fire Marshal to  
19 inspect any program for fire safety pursuant to section 81-502. The State  
20 Fire Marshal shall immediately notify the department whenever he or she  
21 delegates authority for such inspections under such section.

22            (2) The department may investigate all facilities and programs of  
23 licensed providers of child care programs as defined in section 71-1910  
24 or applicants for licenses to provide such programs to determine if the  
25 place or places to be covered by such licenses meet standards of  
26 sanitation and physical well-being set by the department for the care and  
27 protection of the child or children who may be placed in such facilities  
28 and programs. The department may delegate this authority to qualified  
29 local environmental health personnel.

30            (3) This section does not apply to school-age child care programs  
31 which are licensed pursuant to section 62 of this act.

1        Sec. 62. (1) For purposes of licensing a school-age child care  
2 program, a school-age child care program which operates in an accredited  
3 or approved school under the rules and regulations of the State  
4 Department of Education shall be deemed to meet the standards of the  
5 State Department of Education for the care and protection of children.  
6 The Department of Health and Human Services shall provide for inspections  
7 of school-age child care programs to determine compliance with this  
8 section. If a school-age child care program accepts reimbursement from a  
9 state or federal program, the Department of Health and Human Services  
10 shall also determine whether the school-age child care program complies  
11 with the requirements of the state or federal program for such  
12 reimbursement.

13        (2) The Department of Health and Human Services may, in consultation  
14 with the State Department of Education, adopt and promulgate rules and  
15 regulations as necessary to implement this section.

16        Sec. 63. Section 71-2411, Revised Statutes Cumulative Supplement,  
17 2016, is amended to read:

18        71-2411 For purposes of the Emergency Box Drug Act:

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

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

23        (3) Drug means any prescription drug or device or legend drug or  
24 device defined under section 38-2841, any nonprescription drug as defined  
25 under section 38-2829, any controlled substance as defined under section  
26 28-405, or any device as defined under section 38-2814;

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

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

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

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

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

14       Sec. 64. Section 71-2445, Revised Statutes Supplement, 2017, is  
15 amended to read:

16       71-2445 For purposes of the Automated Medication Systems Act:

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

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

28       (3) Chart order means an order for a drug or device issued by a  
29 practitioner for a patient who is in the hospital where the chart is  
30 stored, for a patient receiving detoxification treatment or maintenance  
31 treatment pursuant to section 28-412, or for a resident in a long-term

1 care facility in which a long-term care automated pharmacy is located  
2 from which drugs will be dispensed. Chart order does not include a  
3 prescription;

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

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

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

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

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

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

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

31 (11) Practice of pharmacy has the definition found in section

1 38-2837;

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

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

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

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

17 Sec. 65. Section 71-2454, Revised Statutes Supplement, 2017, is  
18 amended to read:

19 71-2454 (1) An entity described in section 71-2455 shall establish a  
20 system of prescription drug monitoring for the purposes of (a) preventing  
21 the misuse of controlled substances that are prescribed and (b) allowing  
22 prescribers and dispensers to monitor the care and treatment of patients  
23 for whom such a prescription drug is prescribed to ensure that such  
24 prescription drugs are used for medically appropriate purposes and that  
25 the State of Nebraska remains on the cutting edge of medical information  
26 technology.

27 (2) Such system of prescription drug monitoring shall be implemented  
28 as follows: Except as provided in subsection (4) of this section,  
29 beginning January 1, 2017, all dispensed prescriptions of controlled  
30 substances shall be reported; and beginning January 1, 2018, all  
31 prescription information shall be reported to the prescription drug

1 monitoring system. The prescription drug monitoring system shall include,  
2 but not be limited to, provisions that:

3 (a) Prohibit any patient from opting out of the prescription drug  
4 monitoring system;

5 (b) Require all prescriptions dispensed in this state or to an  
6 address in this state to be entered into the system by the dispenser or  
7 his or her designee daily after such prescription is dispensed, including  
8 those for patients paying cash for such prescription drug or otherwise  
9 not relying on a third-party payor for payment for the prescription drug;

10 (c) Allow all prescribers or dispensers of prescription drugs to  
11 access the system at no cost to such prescriber or dispenser;

12 (d) Ensure that such system includes information relating to all  
13 payors, including, but not limited to, the medical assistance program  
14 established pursuant to the Medical Assistance Act; and

15 (e) Make the prescription information available to the statewide  
16 health information exchange described in section 71-2455 for access by  
17 its participants if such access is in compliance with the privacy and  
18 security protections set forth in the provisions of the federal Health  
19 Insurance Portability and Accountability Act of 1996, Public Law 104-191,  
20 and regulations promulgated thereunder, except that if a patient opts out  
21 of the statewide health information exchange, the prescription  
22 information regarding that patient shall not be accessible by the  
23 participants in the statewide health information exchange.

24 Dispensers may begin on February 25, 2016, to report dispensing of  
25 prescriptions to the entity described in section 71-2455 which is  
26 responsible for establishing the system of prescription drug monitoring.

27 (3) Except as provided in subsection (4) of this section,  
28 prescription information that shall be submitted electronically to the  
29 prescription drug monitoring system shall be determined by the entity  
30 described in section 71-2455 and shall include, but not be limited to:

31 (a) The patient's name, address, and date of birth;

1           (b) The name and address of the pharmacy dispensing the  
2 prescription;

3           (c) The date the prescription is issued;

4           (d) The date the prescription is filled;

5           (e) The name of the drug dispensed or the National Drug Code number  
6 as published by the federal Food and Drug Administration of the drug  
7 dispensed;

8           (f) The strength of the drug prescribed;

9           (g) The quantity of the drug prescribed and the number of days'  
10 supply; and

11           (h) The prescriber's name and National Provider Identifier number or  
12 Drug Enforcement Administration number when reporting a controlled  
13 substance.

14           (4) Beginning July 1, 2018, a veterinarian licensed under the  
15 Veterinary Medicine and Surgery Practice Act shall be required to report  
16 a dispensed prescription of controlled substances listed on Schedule II,  
17 Schedule III, or Schedule IV pursuant to section 28-405. Each such  
18 veterinarian shall indicate that the prescription is an animal  
19 prescription and shall include the following information in such report:

20           (a) The first and last name and address, including city, state, and  
21 zip code, of the individual to whom the drug is dispensed in accordance  
22 with a valid veterinarian-client-patient relationship;

23           (b) Reporting status;

24           (c) The first and last name of the prescribing veterinarian and his  
25 or her federal Drug Enforcement Administration number;

26           (d) The name of the drug dispensed and the prescription number;

27           (e) The date the prescription is written and the date the  
28 prescription is filled;

29           (f) The number of refills authorized, if any; and

30           (g) The quantity of the drug dispensed and the number of days'  
31 supply.

1       (5)(a) All prescription drug information submitted pursuant to this  
2 section, all data contained in the prescription drug monitoring system,  
3 and any report obtained from data contained in the prescription drug  
4 monitoring system are confidential, are privileged, are not public  
5 records, and may be withheld pursuant to section 84-712.05.

6       (b) No patient-identifying data as defined in section 81-664,  
7 including the data collected under subsection (3) of this section, shall  
8 be disclosed, made public, or released to any public or private person or  
9 entity except to the statewide health information exchange described in  
10 section 71-2455 and its participants and to prescribers and dispensers as  
11 provided in subsection (2) of this section.

12       (c) All other data is for the confidential use of the department and  
13 the statewide health information exchange described in section 71-2455  
14 and its participants. The department may release such information as  
15 Class I, Class II, or Class IV data in accordance with section 81-667 to  
16 the private or public persons or entities that the department determines  
17 may view such records as provided in sections 81-663 to 81-675.

18       (6) Before accessing the prescription drug monitoring system, any  
19 user shall undergo training on the purpose of the system, access to and  
20 proper usage of the system, and the law relating to the system, including  
21 confidentiality and security of the prescription drug monitoring system.  
22 Such training shall be administered by the statewide health information  
23 exchange described in section 71-2455 which shall have access to the  
24 prescription drug monitoring system for training and administrative  
25 purposes. Users who have been trained prior to May 10, 2017, are deemed  
26 to be in compliance with the training requirement of this subsection.

27       (7) For purposes of this section:

28       (a) Designee means any licensed or registered health care  
29 professional credentialed under the Uniform Credentialing Act designated  
30 by a prescriber or dispenser to act as an agent of the prescriber or  
31 dispenser for purposes of submitting or accessing data in the

1   prescription drug monitoring system and who is supervised by such  
2   prescriber or dispenser;

3                 (b) Dispensed prescription means a prescription drug delivered to  
4   the ultimate user by or pursuant to the lawful order of a prescriber but  
5   does not include (i) the delivery of such prescription drug for immediate  
6   use for purposes of inpatient hospital care or emergency department care,  
7   (ii) the administration of a prescription drug by an authorized person  
8   upon the lawful order of a prescriber, (iii) a wholesale distributor of a  
9   prescription drug monitored by the prescription drug monitoring system,  
10   or (iv) the dispensing to a nonhuman patient of a prescription drug which  
11   is not a controlled substance listed in Schedule II, Schedule III,  
12   Schedule IV, or Schedule V of section 28-405;

13                 (c) {b} Dispenser means a person authorized in the jurisdiction in  
14   which he or she is practicing to deliver a prescription to the ultimate  
15   user by or pursuant to the lawful order of a prescriber—but does not  
16   include (i) the delivery of such prescription drug for immediate use for  
17   purposes of inpatient hospital care or emergency department care, (ii)  
18   the administration of a prescription drug by an authorized person upon  
19   the lawful order of a prescriber, (iii) a wholesale distributor of a  
20   prescription drug monitored by the prescription drug monitoring system,  
21   or (iv) through December 31, 2017, a veterinarian licensed under the  
22   Veterinary Medicine and Surgery Practice Act when dispensing  
23   prescriptions for animals in the usual course of providing professional  
24   services;

25                 (d) {e} Participant means an individual or entity that has entered  
26   into a participation agreement with the statewide health information  
27   exchange described in section 71-2455 which requires the individual or  
28   entity to comply with the privacy and security protections set forth in  
29   the provisions of the federal Health Insurance Portability and  
30   Accountability Act of 1996, Public Law 104-191, and regulations  
31   promulgated thereunder; and

1       (e) ~~(d)~~ Prescriber means a health care professional authorized to  
2 prescribe in the profession which he or she practices.

3       Sec. 66. Section 71-4204, Revised Statutes Cumulative Supplement,  
4 2016, is amended to read:

5       71-4204 The department shall designate hospitals as comprehensive  
6 stroke centers, thrombectomy-capable stroke centers, primary stroke  
7 centers, or and acute stroke-ready hospitals based on certification from  
8 the American Heart Association, the Joint Commission on Accreditation of  
9 Healthcare Organizations, or another nationally recognized, guidelines-  
10 based organization that provides certification for stroke care, as such  
11 certification existed on the effective date of this act July 21, 2016.  
12 The department shall compile and maintain a list of such hospitals and  
13 post the list on the department's web site. Before June 1 of each year,  
14 the department shall send the list to the physician medical director of  
15 each emergency medical service licensed pursuant to the Emergency Medical  
16 Services Practice Act.

17       Sec. 67. Section 71-4205, Revised Statutes Cumulative Supplement,  
18 2016, is amended to read:

19       71-4205 A hospital that is designated as a comprehensive stroke  
20 center, a thrombectomy-capable stroke center, or a primary stroke center  
21 may enter into a coordinating stroke care agreement with an acute stroke-  
22 ready hospital to provide appropriate access to care for acute stroke  
23 patients. The agreement shall be in writing and shall include, at a  
24 minimum:

25           (1) A transfer agreement for the transport and acceptance of any  
26 stroke patient seen by the acute stroke-ready hospital for stroke  
27 treatment therapies which the acute stroke-ready hospital is not capable  
28 of providing; and

29           (2) Communication criteria and protocol with the acute stroke-ready  
30 hospital.

31       Sec. 68. Section 71-4209, Revised Statutes Cumulative Supplement,

1 2016, is amended to read:

2       71-4209 (1) The department shall establish a stroke system of care  
3 task force to address matters of triage, treatment, and transport of  
4 possible acute stroke patients. The task force shall include  
5 representation from the department, including a program created by the  
6 department to address chronic disease prevention and control issues  
7 including cardiovascular health, the Emergency Medical Services Program  
8 created by the department, and the Office of Rural Health, the American  
9 Stroke Association, the Nebraska State Stroke Association, hospitals  
10 designated as comprehensive stroke centers under the Stroke System of  
11 Care Act, hospitals designated as primary stroke centers under the act,  
12 hospitals designated as thrombectomy-capable stroke centers under the  
13 act, rural hospitals, physicians, and emergency medical services licensed  
14 pursuant to the Emergency Medical Services Practice Act.

15       (2) The task force shall provide advice and recommendations to the  
16 department regarding the implementation of the Stroke System of Care Act.  
17 The task force shall focus on serving both rural and urban areas. The  
18 task force shall provide advice regarding protocols for the assessment,  
19 stabilization, and appropriate routing of stroke patients by emergency  
20 medical services and for coordination and communication between  
21 hospitals, comprehensive stroke centers, primary stroke centers, and  
22 other support services necessary to assure all residents of Nebraska have  
23 access to effective and efficient stroke care.

24       (3) The task force shall recommend eligible essential health care  
25 services for acute stroke care provided through telehealth as defined in  
26 section 71-8503.

27       Sec. 69. The State of Nebraska adopts the EMS Personnel Licensure  
28 Interstate Compact in the form substantially as follows:

29       ARTICLE 1. PURPOSE

30       In order to protect the public through verification of competency  
31 and ensure accountability for patient-care-related activities, all states

1      license emergency medical services personnel, such as emergency medical  
2      technicians, advanced emergency medical technicians, and paramedics. The  
3      EMS Personnel Licensure Interstate Compact is intended to facilitate the  
4      day-to-day movement of emergency medical services personnel across state  
5      boundaries in the performance of their emergency medical services duties  
6      as assigned by an appropriate authority and authorize state emergency  
7      medical services offices to afford immediate legal recognition to  
8      emergency medical services personnel licensed in a member state. This  
9      compact recognizes that states have a vested interest in protecting the  
10     public's health and safety through their licensing and regulation of  
11     emergency medical services personnel and that such state regulation  
12     shared among the member states will best protect public health and  
13     safety. This compact is designed to achieve the following purposes and  
14     objectives:

- 15        1. Increase public access to emergency medical services personnel;
- 16        2. Enhance the states' ability to protect the public's health and  
17        safety, especially patient safety;
- 18        3. Encourage the cooperation of member states in the areas of  
19        emergency medical services personnel licensure and regulation;
- 20        4. Support licensing of military members who are separating from an  
21        active duty tour and their spouses;
- 22        5. Facilitate the exchange of information between member states  
23        regarding emergency medical services personnel licensure, adverse action,  
24        and significant investigatory information;
- 25        6. Promote compliance with the laws governing emergency medical  
26        services personnel practice in each member state; and
- 27        7. Invest all member states with the authority to hold emergency  
28        medical services personnel accountable through the mutual recognition of  
29        member state licenses.

30        ARTICLE 2. DEFINITIONS

31        In the EMS Personnel Licensure Interstate Compact:

1       A. Advanced emergency medical technician (AEMT) means an individual  
2       licensed with cognitive knowledge and a scope of practice that  
3       corresponds to that level in the National EMS Education Standards and  
4       National EMS Scope of Practice Model.

5       B. Adverse action means any administrative, civil, equitable, or  
6       criminal action permitted by a state's laws which may be imposed against  
7       licensed EMS personnel by a state EMS authority or state court,  
8       including, but not limited to, actions against an individual's license  
9       such as revocation, suspension, probation, consent agreement, monitoring,  
10      or other limitation or encumbrance on the individual's practice, letters  
11      of reprimand or admonition, fines, criminal convictions, and state court  
12      judgments enforcing adverse actions by the state EMS authority.

13      C. Alternative program means a voluntary, nondisciplinary substance  
14      abuse recovery program approved by a state EMS authority.

15      D. Certification means the successful verification of entry-level  
16      cognitive and psychomotor competency using a reliable, validated, and  
17      legally defensible examination.

18      E. Commission means the national administrative body of which all  
19      states that have enacted the compact are members.

20      F. Emergency medical services (EMS) means services provided by  
21      emergency medical services personnel.

22      G. Emergency medical services (EMS) personnel includes emergency  
23      medical technicians, advanced emergency medical technicians, and  
24      paramedics.

25      H. Emergency medical technician (EMT) means an individual licensed  
26      with cognitive knowledge and a scope of practice that corresponds to that  
27      level in the National EMS Education Standards and National EMS Scope of  
28      Practice Model.

29      I. Home state means a member state where an individual is licensed  
30      to practice emergency medical services.

31      J. License means the authorization by a state for an individual to

1     practice as an EMT, an AEMT, or a paramedic.

2       K. Medical director means a physician licensed in a member state who  
3       is accountable for the care delivered by EMS personnel.

4       L. Member state means a state that has enacted the EMS Personnel  
5       Licensure Interstate Compact.

6       M. Privilege to practice means an individual's authority to deliver  
7       emergency medical services in remote states as authorized under this  
8       compact.

9       N. Paramedic means an individual licensed with cognitive knowledge  
10      and a scope of practice that corresponds to that level in the National  
11      EMS Education Standards and National EMS Scope of Practice Model.

12      O. Remote state means a member state in which an individual is not  
13      licensed.

14      P. Restricted means the outcome of an adverse action that limits a  
15      license or the privilege to practice.

16      Q. Rule means a written statement by the commission promulgated  
17      pursuant to Article 12 of this compact that is of general applicability;  
18      implements, interprets, or prescribes a policy or provision of this  
19      compact; or is an organizational, procedural, or practice requirement of  
20      the commission and has the force and effect of statutory law in a member  
21      state and includes the amendment, repeal, or suspension of an existing  
22      rule.

23      R. Scope of practice means defined parameters of various duties or  
24      services that may be provided by an individual with specific credentials.  
25      Whether regulated by rule, statute, or court decision, it tends to  
26      represent the limits of services an individual may perform.

27      S. Significant investigatory information means:

28       1. Investigative information that a state EMS authority, after a  
29       preliminary inquiry that includes notification and an opportunity to  
30       respond if required by state law, has reason to believe, if proved true,  
31       would result in the imposition of an adverse action on a license or

1      privilege to practice; or

2            2. Investigative information that indicates that the individual  
3    represents an immediate threat to public health and safety regardless of  
4    whether the individual has been notified and had an opportunity to  
5    respond.

6            T. State means any state, commonwealth, district, or territory of  
7    the United States.

8            U. State EMS authority means the board, office, or other agency with  
9    the legislative mandate to license EMS personnel.

10        ARTICLE 3. HOME STATE LICENSURE

11        A. Any member state in which an individual holds a current license  
12    shall be deemed a home state for purposes of the EMS Personnel Licensure  
13    Interstate Compact.

14        B. Any member state may require an individual to obtain and retain a  
15    license to be authorized to practice in the member state under  
16    circumstances not authorized by the privilege to practice under the terms  
17    of this compact.

18        C. A home state's license authorizes an individual to practice in a  
19    remote state under the privilege to practice only if the home state:

20            1. Currently requires the use of the National Registry of Emergency  
21    Medical Technicians examination as a condition of issuing initial  
22    licenses at the EMT and paramedic levels;

23            2. Has a mechanism in place for receiving and investigating  
24    complaints about individuals;

25            3. Notifies the commission, in compliance with the terms of this  
26    compact, of any adverse action or significant investigatory information  
27    regarding an individual;

28            4. No later than five years after activation of this compact,  
29    requires a criminal background check of all applicants for initial  
30    licensure, including the use of the results of fingerprint or other  
31    biometric data checks compliant with the requirements of the Federal

1   Bureau of Investigation with the exception of federal employees who have  
2   suitability determination in accordance with 5 C.F.R. 731.202 and submit  
3   documentation of such as promulgated in the rules of the commission; and  
4       5. Complies with the rules of the commission.

5       ARTICLE 4. COMPACT PRIVILEGE TO PRACTICE

6       A. Member states shall recognize the privilege to practice of an  
7   individual license in another member state that is in conformance with  
8   Article 3 of the EMS Personnel Licensure Interstate Compact.

9       B. To exercise the privilege to practice under the terms and  
10   provisions of this compact, an individual must:

11          1. Be at least eighteen years of age;  
12          2. Possess a current unrestricted license in a member state as an  
13   EMT, AEMT, paramedic, or state recognized and licensed level with a scope  
14   of practice and authority between EMT and paramedic; and  
15          3. Practice under the supervision of a medical director.

16       C. An individual providing patient care in a remote state under the  
17   privilege to practice shall function within the scope of practice  
18   authorized by the home state unless and until modified by an appropriate  
19   authority in the remote state as may be defined in the rules of the  
20   commission.

21       D. Except as provided in section C of this Article, an individual  
22   practicing in a remote state will be subject to the remote state's  
23   authority and laws. A remote state may, in accordance with due process  
24   and that state's laws, restrict, suspend, or revoke an individual's  
25   privilege to practice in the remote state and may take any other  
26   necessary actions to protect the health and safety of its citizens. If a  
27   remote state takes action, it shall promptly notify the home state and  
28   the commission.

29       E. If an individual's license in any home state is restricted or  
30   suspended, the individual shall not be eligible to practice in a remote  
31   state under the privilege to practice until the individual's home state

1 license is restored.

2 F. If an individual's privilege to practice in any remote state is  
3 restricted, suspended, or revoked, the individual shall not be eligible  
4 to practice in any remote state until the individual's privilege to  
5 practice is restored.

6 ARTICLE 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

7 An individual may practice in a remote state under a privilege to  
8 practice only in the performance of the individual's EMS duties as  
9 assigned by an appropriate authority, as defined in the rules of the  
10 commission, and under the following circumstances:

11 1. The individual originates a patient transport in a home state and  
12 transports the patient to a remote state;

13 2. The individual originates in the home state and enters a remote  
14 state to pick up a patient and provide care and transport of the patient  
15 to the home state;

16 3. The individual enters a remote state to provide patient care or  
17 transport within that remote state;

18 4. The individual enters a remote state to pick up a patient and  
19 provide care and transport to a third member state;

20 5. Other conditions as determined by rules promulgated by the  
21 commission.

22 ARTICLE 6. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT

23 Upon a member state's governor's declaration of a state of emergency  
24 or disaster that activates the Emergency Management Assistance Compact,  
25 all relevant terms and provisions of the compact shall apply and to the  
26 extent any terms or provisions of the EMS Personnel Licensure Interstate  
27 Compact conflict with the Emergency Management Assistance Compact, the  
28 terms of the Emergency Management Assistance Compact shall prevail with  
29 respect to any individual practicing in the remote state in response to  
30 such declaration.

31 ARTICLE 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY

1     MILITARY, AND THEIR SPOUSES

2         A. Member states shall consider a veteran, an active military  
3         service member, and a member of the National Guard and Reserves  
4         separating from an active duty tour, and a spouse thereof, who holds a  
5         current valid and unrestricted National Registry of Emergency Medical  
6         Technicians certification at or above the level of the state license  
7         being sought as satisfying the minimum training and examination  
8         requirements for such licensure.

9         B. Member states shall expedite the processing of licensure  
10        applications submitted by veterans, active military service members, and  
11        members of the National Guard and Reserves separating from an active duty  
12        tour and their spouses.

13         C. All individuals functioning with a privilege to practice under  
14        this Article remain subject to the adverse actions provisions of Article  
15        8 of the EMS Personnel Licensure Interstate Compact.

16         ARTICLE 8. ADVERSE ACTIONS

17         A. A home state shall have exclusive power to impose adverse action  
18        against an individual's license issued by the home state.

19         B. If an individual's license in any home state is restricted or  
20        suspended, the individual shall not be eligible to practice in a remote  
21        state under the privilege to practice until the individual's home state  
22        license is restored.

23             1. All home state adverse action orders shall include a statement  
24            that the individual's compact privileges are inactive. The order may  
25            allow the individual to practice in remote states with prior written  
26            authorization from the state EMS authority of both the home state and the  
27            remote state.

28             2. An individual currently subject to adverse action in the home  
29            state shall not practice in any remote state without prior written  
30            authorization from the state EMS authority of both the home state and the  
31            remote state.

1       C. A member state shall report adverse actions and any occurrences  
2       that the individual's compact privileges are restricted, suspended, or  
3       revoked to the commission in accordance with the rules of the commission.

4       D. A remote state may take adverse action on an individual's  
5       privilege to practice within that state.

6       E. Any member state may take adverse action against an individual's  
7       privilege to practice in that state based on the factual findings of  
8       another member state, so long as each state follows its own procedures  
9       for imposing such adverse action.

10      F. A home state's state EMS authority shall investigate and take  
11      appropriate action with respect to reported conduct in a remote state as  
12      it would if such conduct had occurred within the home state. In such  
13      cases, the home state's law shall control in determining the appropriate  
14      adverse action.

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

23      ARTICLE 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S STATE EMS  
24      AUTHORITY

25      A member state's state EMS authority, in addition to any other  
26      powers granted under state law, is authorized under the EMS Personnel  
27      Licensure Interstate Compact to:

28      1. Issue subpoenas for both hearings and investigations that require  
29      the attendance and testimony of witnesses and the production of evidence.  
30      Subpoenas issued by a member state's state EMS authority for the  
31      attendance and testimony of witnesses, or the production of evidence from

1 another member state, shall be enforced in the remote state by any court  
2 of competent jurisdiction, according to that court's practice and  
3 procedure in considering subpoenas issued in its own proceedings. The  
4 issuing state EMS authority shall pay any witness fees, travel expenses,  
5 mileage, and other fees required by the service statutes of the state  
6 where the witnesses or evidence is located; and

7 2. Issue cease and desist orders to restrict, suspend, or revoke an  
8 individual's privilege to practice in the state.

9 ARTICLE 10. ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS  
10 PERSONNEL PRACTICE

11 A. The member states hereby create and establish a joint public  
12 agency known as the Interstate Commission for EMS Personnel Practice.

13 1. The commission is a body politic and an instrumentality of the  
14 member states.

15 2. Venue is proper and judicial proceedings by or against the  
16 commission shall be brought solely and exclusively in a court of  
17 competent jurisdiction where the principal office of the commission is  
18 located. The commission may waive venue and jurisdictional defenses to  
19 the extent it adopts or consents to participate in alternative dispute  
20 resolution proceedings.

21 3. Nothing in the EMS Personnel Licensure Interstate Compact shall  
22 be construed to be a waiver of sovereign immunity.

23 B. Membership, Voting, and Meetings

24 1. Each member state shall have and be limited to one delegate. The  
25 responsible official of the state EMS authority or his or her designee  
26 shall be the delegate to this compact for each member state. Any delegate  
27 may be removed or suspended from office as provided by the law of the  
28 state from which the delegate is appointed. Any vacancy occurring in the  
29 commission shall be filled in accordance with the laws of the member  
30 state in which the vacancy exists. In the event that more than one board,  
31 office, or other agency with the legislative mandate to license EMS

1 personnel at and above the level of EMT exists, the Governor of the  
2 member state will determine which entity will be responsible for  
3 assigning the delegate.

4 2. Each delegate shall be entitled to one vote with regard to the  
5 promulgation of rules and creation of bylaws and shall otherwise have an  
6 opportunity to participate in the business and affairs of the commission.

7 A delegate shall vote in person or by such other means as provided in the  
8 bylaws. The bylaws may provide for delegates' participation in meetings  
9 by telephone or other means of communication.

10 3. The commission shall meet at least once during each calendar  
11 year. Additional meetings shall be held as set forth in the bylaws.

12 4. All meetings shall be open to the public, and public notice of  
13 meetings shall be given in the same manner as required under the  
14 rulemaking provisions in Article 12 of this compact.

15 5. The commission may convene in a closed, nonpublic meeting if the  
16 commission must discuss:

17 a. Noncompliance of a member state with its obligations under this  
18 compact;

19 b. The employment, compensation, discipline, or other personnel  
20 matters, practices, or procedures related to specific employees or other  
21 matters related to the commission's internal personnel practices and  
22 procedures;

23 c. Current, threatened, or reasonably anticipated litigation;

24 d. Negotiation of contracts for the purchase or sale of goods,  
25 services, or real estate;

26 e. Accusing any person of a crime or formally censuring any person;

27 f. Disclosure of trade secrets or commercial or financial  
28 information that is privileged or confidential;

29 g. Disclosure of information of a personal nature where disclosure  
30 would constitute a clearly unwarranted invasion of personal privacy;

31 h. Disclosure of investigatory records compiled for law enforcement

1    purposes;

2        i. Disclosure of information related to any investigatory reports  
3    prepared by or on behalf of or for use of the commission or other  
4    committee charged with responsibility of investigation or determination  
5    of compliance issues pursuant to the compact; or

6        j. Matters specifically exempted from disclosure by federal or  
7    member state statute.

8        6. If a meeting, or portion of a meeting, is closed pursuant to this  
9    Article, the commission's legal counsel or designee shall certify that  
10   the meeting may be closed and shall reference each relevant exempting  
11   provision. The commission shall keep minutes that fully and clearly  
12   describe all matters discussed in a meeting and shall provide a full and  
13   accurate summary of actions taken, and the reasons for the actions,  
14   including a description of the views expressed. All documents considered  
15   in connection with an action shall be identified in such minutes. All  
16   minutes and documents of a closed meeting shall remain under seal,  
17   subject to release by a majority vote of the commission or order of a  
18   court of competent jurisdiction.

19        C. The commission shall, by a majority vote of the delegates,  
20   prescribe bylaws or rules to govern its conduct as may be necessary or  
21   appropriate to carry out the purposes and exercise the powers of this  
22   compact, including, but not limited to:

23        1. Establishing the fiscal year of the commission;  
24        2. Providing reasonable standards and procedures:  
25            a. For the establishment and meetings of other committees; and  
26            b. Governing any general or specific delegation of any authority or  
27   function of the commission;  
28        3. Providing reasonable procedures for calling and conducting  
29   meetings of the commission, ensuring reasonable advance notice of all  
30   meetings, and providing an opportunity for attendance of such meetings by  
31   interested parties, with enumerated exceptions designed to protect the

1    public's interest, the privacy of individuals, and proprietary  
2    information, including trade secrets. The commission may meet in closed  
3    session only after a majority of the membership votes to close a meeting  
4    in whole or in part. As soon as practicable, the commission must make  
5    public a copy of the vote to close the meeting revealing the vote of each  
6    member with no proxy votes allowed;

7        4. Establishing the titles, duties and authority and reasonable  
8    procedures for the election of the officers of the commission;

9        5. Providing reasonable standards and procedures for the  
10    establishment of the personnel policies and programs of the commission.  
11    Notwithstanding any civil service or other similar laws of any member  
12    state, the bylaws shall exclusively govern the personnel policies and  
13    programs of the commission;

14        6. Promulgating a code of ethics to address permissible and  
15    prohibited activities of commission members and employees;

16        7. Providing a mechanism for winding up the operations of the  
17    commission and the equitable disposition of any surplus funds that may  
18    exist after the termination of this compact after the payment or  
19    reserving of all of its debts and obligations;

20        8. The commission shall publish its bylaws and file a copy thereof,  
21    and a copy of any amendment thereto, with the appropriate agency or  
22    officer in each of the member states, if any.

23        9. The commission shall maintain its financial records in accordance  
24    with the bylaws.

25        10. The commission shall meet and take such actions as are  
26    consistent with this compact and the bylaws.

27        D. The commission shall have the following powers:

28        1. The authority to promulgate uniform rules to facilitate and  
29    coordinate implementation and administration of this compact. The rules  
30    shall have the force and effect of law and shall be binding in all member  
31    states;

1       2. To bring and prosecute legal proceedings or actions in the name  
2       of the commission. The standing of any state EMS authority or other  
3       regulatory body responsible for EMS personnel licensure to sue or be sued  
4       under applicable law shall not be affected;

5       3. To purchase and maintain insurance and bonds;

6       4. To borrow, accept, or contract for services of personnel,  
7       including, but not limited to, employees of a member state;

8       5. To hire employees, elect or appoint officers, fix compensation,  
9       define duties, grant such individuals appropriate authority to carry out  
10      the purposes of this compact, and establish the commission's personnel  
11      policies and programs relating to conflicts of interest, qualifications  
12      of personnel, and other related personnel matters;

13      6. To accept any and all appropriate donations and grants of money,  
14      equipment, supplies, materials, and services, and to receive, utilize,  
15      and dispose of the same. At all times the commission shall strive to  
16      avoid any appearance of impropriety or conflict of interest;

17      7. To lease, purchase, accept appropriate gifts or donations of, or  
18      otherwise to own, hold, improve, or use, any property, real, personal, or  
19      mixed. At all times the commission shall strive to avoid any appearance  
20      of impropriety;

21      8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or  
22      otherwise dispose of any property real, personal, or mixed;

23      9. To establish a budget and make expenditures;

24      10. To borrow money;

25      11. To appoint committees, including advisory committees comprised  
26      of members, state regulators, state legislators or their representatives,  
27      and consumer representatives, and such other interested persons as may be  
28      designated in this compact and the bylaws;

29      12. To provide and receive information from, and to cooperate with,  
30      law enforcement agencies;

31      13. To adopt and use an official seal; and

1       14. To perform such other functions as may be necessary or  
2       appropriate to achieve the purposes of this compact consistent with the  
3       state regulation of EMS personnel licensure and practice.

4       E. Financing of the Commission

5       1. The commission shall pay, or provide for the payment of, the  
6       reasonable expenses of its establishment, organization, and ongoing  
7       activities.

8       2. The commission may accept any and all appropriate revenue  
9       sources, donations, and grants of money, equipment, supplies, materials,  
10      and services.

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

19      4. The commission shall not incur obligations of any kind prior to  
20      securing the funds adequate to meet the same; nor shall the commission  
21      pledge the credit of any of the member states, except by and with the  
22      authority of the member state.

23      5. The commission shall keep accurate accounts of all receipts and  
24      disbursements. The receipts and disbursements of the commission shall be  
25      subject to the audit and accounting procedures established under its  
26      bylaws. However, all receipts and disbursements of funds handled by the  
27      commission shall be audited yearly by a certified or licensed public  
28      accountant, and the report of the audit shall be included in and become  
29      part of the annual report of the commission.

30      F. Qualified Immunity, Defense, and Indemnification

31      1. The members, officers, executive director, employees, and

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

12       2. The commission shall defend any member, officer, executive  
13    director, employee, or representative of the commission in any civil  
14   action seeking to impose liability arising out of any actual or alleged  
15   act, error, or omission that occurred within the scope of commission  
16   employment, duties, or responsibilities, or that the person against whom  
17   the claim is made had a reasonable basis for believing occurred within  
18   the scope of commission employment, duties, or responsibilities. Nothing  
19   in this paragraph shall be construed to prohibit that person from  
20   retaining his or her own counsel. The commission shall provide such  
21   defense if the actual or alleged act, error, or omission did not result  
22   from that person's intentional or willful or wanton misconduct.

23       3. The commission shall indemnify and hold harmless any member,  
24   officer, executive director, employee, or representative of the  
25   commission for the amount of any settlement or judgment obtained against  
26   that person arising out of any actual or alleged act, error, or omission  
27   that occurred within the scope of commission employment, duties, or  
28   responsibilities, or that such person had a reasonable basis for  
29   believing occurred within the scope of commission employment, duties, or  
30   responsibilities, if the actual or alleged act, error, or omission did  
31   not result from the intentional or willful or wanton misconduct of that

1   person.

2           ARTICLE 11. COORDINATED DATA BASE

3           A. The commission shall provide for the development and maintenance  
4   of a coordinated data base and reporting system containing licensure,  
5   adverse action, and significant investigatory information on all licensed  
6   individuals in member states.

7           B. A member state shall submit a uniform data set to the coordinated  
8   data base on all individuals to whom the EMS Personnel Licensure  
9   Interstate Compact is applicable as required by the rules of the  
10   commission, including:

- 11           1. Identifying information;
- 12           2. Licensure data;
- 13           3. Significant investigatory information;
- 14           4. Adverse actions against an individual's license;
- 15           5. An indicator that an individual's privilege to practice is  
16   restricted, suspended, or revoked;
- 17           6. Nonconfidential information related to alternative program  
18   participation;
- 19           7. Any denial of application for licensure, and the reason for such  
20   denial; and
- 21           8. Other information that may facilitate the administration of this  
22   compact, as determined by the rules of the commission.

23           C. The coordinated data base administrator shall promptly notify all  
24   member states of any adverse action taken against, or significant  
25   investigative information on, any individual in a member state.

26           D. Member states contributing information to the coordinated data  
27   base may designate information that may not be shared with the public  
28   without the express permission of the contributing state.

29           E. Any information submitted to the coordinated data base that is  
30   subsequently required to be expunged by the laws of the member state  
31   contributing the information shall be removed from the coordinated data

1   base.

2           ARTICLE 12. RULEMAKING

3           A. The commission shall exercise its rulemaking powers pursuant to  
4   the criteria set forth in this Article and the rules adopted thereunder.  
5   Rules and amendments shall become binding as of the date specified in  
6   each rule or amendment.

7           B. If a majority of the legislatures of the member states rejects a  
8   rule, by enactment of a statute or resolution in the same manner used to  
9   adopt the EMS Personnel Licensure Interstate Compact, then such rule  
10   shall have no further force and effect in any member state.

11          C. Rules or amendments to the rules shall be adopted at a regular or  
12   special meeting of the commission.

13          D. Prior to promulgation and adoption of a final rule or rules by  
14   the commission, and at least sixty days in advance of the meeting at  
15   which the rule will be considered and voted upon, the commission shall  
16   file a notice of proposed rulemaking:

17            1. On the web site of the commission; and

18            2. On the web site of each member state's state EMS authority or the  
19   publication in which each state would otherwise publish proposed rules.

20          E. The notice of proposed rulemaking shall include:

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

23            2. The text of the proposed rule or amendment and the reason for the  
24   proposed rule;

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

27            4. The manner in which interested persons may submit notice to the  
28   commission of their intention to attend the public hearing and any  
29   written comments.

30          F. Prior to adoption of a proposed rule, the commission shall allow  
31   persons to submit written data, facts, opinions, and arguments, which

1   shall be made available to the public.

2       G. The commission shall grant an opportunity for a public hearing  
3   before it adopts a rule or amendment if a hearing is requested by:

4       1. At least twenty-five persons;

5       2. A governmental subdivision or agency; or

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

7       H. If a hearing is held on the proposed rule or amendment, the  
8   commission shall publish the place, time, and date of the scheduled  
9   public hearing.

10      1. All persons wishing to be heard at the hearing shall notify the  
11   executive director of the commission or other designated member in  
12   writing of their desire to appear and testify at the hearing not less  
13   than five business days before the scheduled date of the hearing.

14      2. Hearings shall be conducted in a manner providing each person who  
15   wishes to comment a fair and reasonable opportunity to comment orally or  
16   in writing.

17      3. No transcript of the hearing is required, unless a written  
18   request for a transcript is made, in which case the person requesting the  
19   transcript shall bear the cost of producing the transcript. A recording  
20   may be made in lieu of a transcript under the same terms and conditions  
21   as a transcript. This subsection shall not preclude the commission from  
22   making a transcript or recording of the hearing if it so chooses.

23      4. Nothing in this Article shall be construed as requiring a  
24   separate hearing on each rule. Rules may be grouped for the convenience  
25   of the commission at hearings required by this Article.

26      I. Following the scheduled hearing date, or by the close of business  
27   on the scheduled hearing date if the hearing was not held, the commission  
28   shall consider all written and oral comments received.

29      J. The commission shall, by majority vote of all members, take final  
30   action on the proposed rule and shall determine the effective date of the  
31   rule, if any, based on the rulemaking record and the full text of the

1     rule.

2       K. If no written notice of intent to attend the public hearing by  
3     interested parties is received, the commission may proceed with  
4     promulgation of the proposed rule without a public hearing.

5       L. Upon determination that an emergency exists, the commission may  
6     consider and adopt an emergency rule without prior notice, opportunity  
7     for comment, or hearing. The usual rulemaking procedures provided in this  
8     compact and in this Article shall be retroactively applied to the rule as  
9     soon as reasonably possible, in no event later than ninety days after the  
10    effective date of the rule. For purposes of this paragraph, an emergency  
11    rule is one that must be adopted immediately in order to:

12      1. Meet an imminent threat to public health, safety, or welfare;  
13      2. Prevent a loss of commission or member state funds;  
14      3. Meet a deadline for the promulgation of an administrative rule  
15    that is established by federal law or rule; or  
16      4. Protect public health and safety.

17       M. The commission or an authorized committee of the commission may  
18     direct revisions to a previously adopted rule or amendment for purposes  
19     of correcting typographical errors, errors in format, errors in  
20     consistency, or grammatical errors. Public notice of any revisions shall  
21    be posted on the web site of the commission. The revision shall be  
22    subject to challenge by any person for a period of thirty days after  
23    posting. The revision may be challenged only on grounds that the revision  
24    results in a material change to a rule. A challenge shall be made in  
25    writing and delivered to the chair of the commission prior to the end of  
26    the notice period. If no challenge is made, the revision will take effect  
27    without further action. If the revision is challenged, the revision may  
28    not take effect without the approval of the commission.

29       ARTICLE 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

30       A. Oversight

31      1. The executive, legislative, and judicial branches of state

1 government in each member state shall enforce the EMS Personnel Licensure  
2 Interstate Compact and take all actions necessary and appropriate to  
3 effectuate this compact's purposes and intent. This compact and the rules  
4 promulgated under this compact shall have standing as statutory law.

5 2. All courts shall take judicial notice of this compact and the  
6 rules in any judicial or administrative proceeding in a member state  
7 pertaining to the subject matter of this compact which may affect the  
8 powers, responsibilities, or actions of the commission.

9 3. The commission shall be entitled to receive service of process in  
10 any such proceeding and shall have standing to intervene in such a  
11 proceeding for all purposes. Failure to provide service of process to the  
12 commission shall render a judgment or order void as to the commission,  
13 this compact, or promulgated rules.

14 B. Default, Technical Assistance, and Termination

15 1. If the commission determines that a member state has defaulted in  
16 the performance of its obligations or responsibilities under this compact  
17 or the promulgated rules, the commission shall:

18 a. Provide written notice to the defaulting state and other member  
19 states of the nature of the default, the proposed means of curing the  
20 default, or any other action to be taken by the commission; and

21 b. Provide remedial training and specific technical assistance  
22 regarding the default.

23 2. If a state in default fails to cure the default, the defaulting  
24 state may be terminated from this compact upon an affirmative vote of a  
25 majority of the member states, and all rights, privileges, and benefits  
26 conferred by this compact may be terminated on the effective date of  
27 termination. A cure of the default does not relieve the offending state  
28 of obligations or liabilities incurred during the period of default.

29 3. Termination of membership in this compact shall be imposed only  
30 after all other means of securing compliance have been exhausted. Notice  
31 of intent to suspend or terminate shall be given by the commission to the

1     governor, the majority and minority leaders of the defaulting state's  
2     legislature or the speaker if no such leaders exist, and each of the  
3     member states.

4         4. A state that has been terminated is responsible for all  
5     assessments, obligations, and liabilities incurred through the effective  
6     date of termination, including obligations that extend beyond the  
7     effective date of termination.

8         5. The commission shall not bear any costs related to a state that  
9     is found to be in default or that has been terminated from this compact,  
10     unless agreed upon in writing between the commission and the defaulting  
11     state.

12         6. The defaulting state may appeal the action of the commission by  
13     petitioning the United States District Court for the District of Columbia  
14     or the federal district where the commission has its principal offices.  
15     The prevailing member shall be awarded all costs of such litigation,  
16     including reasonable attorney's fees.

17             C. Dispute Resolution

18         1. Upon request by a member state, the commission shall attempt to  
19     resolve disputes related to this compact that arise among member states  
20     and between member and nonmember states.

21         2. The commission shall promulgate a rule providing for both  
22     mediation and binding dispute resolution for disputes as appropriate.

23             D. Enforcement

24         1. The commission, in the reasonable exercise of its discretion,  
25     shall enforce the provisions and rules of this compact.

26         2. By majority vote, the commission may initiate legal action in the  
27     United States District Court for the District of Columbia or the federal  
28     district where the commission has its principal offices against a member  
29     state in default to enforce compliance with this compact and its  
30     promulgated rules and bylaws. The relief sought may include both  
31     injunctive relief and damages. In the event judicial enforcement is

1     necessary, the prevailing member shall be awarded all costs of such  
2     litigation, including reasonable attorney's fees.

3       3. The remedies in this Article shall not be the exclusive remedies  
4     of the commission. The commission may pursue any other remedies available  
5     under federal or state law.

6           ARTICLE 14. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR  
7     EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

8       A. The EMS Personnel Licensure Interstate Compact shall come into  
9     effect on the date on which the compact statute is enacted into law in  
10    the tenth member state. The provisions, which become effective at that  
11    time, shall be limited to the powers granted to the commission relating  
12    to assembly and the promulgation of rules. Thereafter, the commission  
13    shall meet and exercise rulemaking powers necessary to the implementation  
14    and administration of this compact.

15       B. Any state that joins the compact subsequent to the commission's  
16    initial adoption of the rules shall be subject to the rules as they exist  
17    on the date on which the compact becomes law in that state. Any rule that  
18    has been previously adopted by the commission shall have the full force  
19    and effect of law on the day the compact becomes law in that state.

20       C. Any member state may withdraw from this compact by enacting a  
21    statute repealing the same.

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

24       2. Withdrawal shall not affect the continuing requirement of the  
25    withdrawing state's state EMS authority to comply with the investigative  
26    and adverse action reporting requirements of this compact prior to the  
27    effective date of withdrawal.

28       D. Nothing contained in this compact shall be construed to  
29    invalidate or prevent any EMS personnel licensure agreement or other  
30    cooperative arrangement between a member state and a nonmember state that  
31    does not conflict with this compact.

1       E. This compact may be amended by the member states. No amendment to  
2       this compact shall become effective and binding upon any member state  
3       until it is enacted into the laws of all member states.

4       ARTICLE 15. CONSTRUCTION AND SEVERABILITY

5       The EMS Personnel Licensure Interstate Compact shall be liberally  
6       construed so as to effectuate the purposes thereof. If this compact shall  
7       be held contrary to the constitution of any member state, the compact  
8       shall remain in full force and effect as to the remaining member states.  
9       Nothing in this compact supersedes state law or rules related to  
10      licensure of EMS agencies.

11      Sec. 70.     The State of Nebraska adopts the Psychology  
12      Interjurisdictional Compact substantially as follows:

13      ARTICLE I

14      PURPOSE

15      States license psychologists in order to protect the public through  
16      verification of education, training, and experience and ensure  
17      accountability for professional practice.

18      The Psychology Interjurisdictional Compact is intended to regulate  
19      the day-to-day practice of telepsychology, the provision of psychological  
20      services using telecommunication technologies, by psychologists across  
21      state boundaries in the performance of their psychological practice as  
22      assigned by an appropriate authority.

23      The Compact is intended to regulate the temporary in-person, face-  
24      to-face practice of psychology by psychologists across state boundaries  
25      for thirty days within a calendar year in the performance of their  
26      psychological practice as assigned by an appropriate authority.

27      The Compact is intended to authorize state psychology regulatory  
28      authorities to afford legal recognition, in a manner consistent with the  
29      terms of the Compact, to psychologists licensed in another state.

30      The Compact recognizes that states have a vested interest in  
31      protecting the public's health and safety through licensing and

1   regulation of psychologists and that such state regulation will best  
2   protect public health and safety.

3       The Compact does not apply when a psychologist is licensed in both  
4   the home and receiving states.

5       The Compact does not apply to permanent in-person, face-to-face  
6   practice; it does allow for authorization of temporary psychological  
7   practice.

8       Consistent with these principles, the Compact is designed to achieve  
9   the following purposes and objectives:

10      1. Increase public access to professional psychological services by  
11   allowing for telepsychological practice across state lines as well as  
12   temporary in-person, face-to-face services into a state which the  
13   psychologist is not licensed to practice psychology;

14      2. Enhance the states' ability to protect the public's health and  
15   safety, especially client or patient safety;

16      3. Encourage the cooperation of compact states in the areas of  
17   psychology licensure and regulation;

18      4. Facilitate the exchange of information between compact states  
19   regarding psychologist licensure, adverse actions, and disciplinary  
20   history;

21      5. Promote compliance with the laws governing psychological practice  
22   in each compact state; and

23      6. Invest all compact states with the authority to hold licensed  
24   psychologists accountable through the mutual recognition of compact state  
25   licenses.

26      **ARTICLE II**

27      **DEFINITIONS**

28      A. Adverse action means any action taken by a state psychology  
29   regulatory authority which finds a violation of a statute or regulation  
30   that is identified by the state psychology regulatory authority as  
31   discipline and is a matter of public record.

1       B. Association of State and Provincial Psychology Boards means the  
2       recognized membership organization composed of State and Provincial  
3       Psychology Regulatory Authorities responsible for the licensure and  
4       registration of psychologists throughout the United States and Canada.

5       C. Authority to practice interjurisdictional telepsychology means a  
6       licensed psychologist's authority to practice telepsychology, within the  
7       limits authorized under the Psychology Interjurisdictional Compact, in  
8       another compact state.

9       D. Bylaws means those bylaws established by the Commission pursuant  
10      to Article X for its governance, or for directing and controlling its  
11      actions and conduct.

12       E. Client or patient means the recipient of psychological services,  
13       whether psychological services are delivered in the context of  
14       healthcare, corporate, supervision, and/or consulting services.

15       F. Commission means the Psychology Interjurisdictional Compact  
16      Commission which is the national administration of which all compact  
17      states are members.

18       G. Commissioner means the voting representative appointed by each  
19      state psychology regulatory authority pursuant to Article X.

20       H. Compact state means a state, the District of Columbia, or a  
21      United States territory that has enacted the Compact and which has not  
22      withdrawn pursuant to Article XIII, subsection C or been terminated  
23      pursuant to Article XII, subsection B.

24       I. Coordinated Licensure Information System means an integrated  
25      process for collecting, storing, and sharing information on  
26      psychologists' licensure and enforcement activities related to psychology  
27      licensure laws, which is administered by the recognized membership  
28      organization composed of state and provincial psychology regulatory  
29      authorities.

30       J. Confidentiality means the principle that data or information is  
31      not made available or disclosed to unauthorized persons or processes.

1       K. Day means any part of a day in which psychological work is  
2       performed.

3       L. Distant state means the compact state where a psychologist is  
4       physically present, not through using telecommunications technologies, to  
5       provide temporary in-person, face-to-face psychological services.

6       M. E.Passport means a certificate issued by the Association of State  
7       and Provincial Psychology Boards that promotes the standardization in the  
8       criteria of interjurisdictional telepsychology practice and facilitates  
9       the process for licensed psychologists to provide telepsychological  
10      services across state lines.

11      N. Executive board means a group of directors elected or appointed  
12      to act on behalf of, and within the powers granted to them by, the  
13      commission.

14      O. Home state means a compact state where a psychologist is licensed  
15      to practice psychology. If the psychologist is licensed in more than one  
16      compact state and is practicing under the authorization to practice  
17      interjurisdictional telepsychology, the home state is the compact state  
18      where the psychologist is physically present when the telepsychology  
19      services are delivered. If the psychologist is licensed in more than one  
20      compact state and is practicing under the temporary authorization to  
21      practice, the home state is any compact state where the psychologist is  
22      licensed.

23      P. Identity history summary means a summary of information retained  
24      by the Federal Bureau of Investigation, or other designee with similar  
25      authority, in connection with arrests and, in some instances, federal  
26      employment, naturalization, or military service.

27      Q. In-person, face-to-face means interactions in which the  
28      psychologist and the client or patient are in the same physical space and  
29      which does not include interactions that may occur through the use of  
30      telecommunication technologies.

31      R. Interjurisdictional Practice Certificate means a certificate

1    issued by the Association of State and Provincial Psychology Boards that  
2    grants temporary authority to practice based on notification to the state  
3    psychology regulatory authority of intention to practice temporarily and  
4    verification of one's qualifications for such practice.

5        S. License means authorization by a state psychology regulatory  
6    authority to engage in the independent practice of psychology, which  
7    would be unlawful without the authorization.

8        T. Noncompact state means any state which is not at the time a  
9    compact state.

10        U. Psychologist means an individual licensed for the independent  
11    practice of psychology.

12        V. Receiving state means a compact state where the client or patient  
13    is physically located when the telepsychology services are delivered.

14        W. Rule means a written statement by the Commission promulgated  
15    pursuant to Article XI that is of general applicability, implements,  
16    interprets, or prescribes a policy or provision of the Compact, or an  
17    organizational, procedural, or practice requirement of the Commission and  
18    has the force and effect of statutory law in a compact state, and  
19    includes the amendment, repeal, or suspension of an existing rule.

20        X. Significant investigatory information means:

21        1. Investigative information that a state psychology regulatory  
22    authority, after a preliminary inquiry that includes notification and an  
23    opportunity to respond if required by state law, has reason to believe,  
24    if proven true, would indicate more than a violation of state statute or  
25    ethics code that would be considered more substantial than minor  
26    infraction; or

27        2. Investigative information that indicates that the psychologist  
28    represents an immediate threat to public health and safety regardless of  
29    whether the psychologist has been notified or had an opportunity to  
30    respond.

31        Y. State means a state, commonwealth, territory, or possession of

1     the United States or the District of Columbia.

2       Z. State psychology regulatory authority means the board, office, or  
3     other agency with the legislative mandate to license and regulate the  
4     practice of psychology.

5       AA. Telepsychology means the provision of psychological services  
6     using telecommunication technologies.

7       BB. Temporary authorization to practice means a licensed  
8     psychologist's authority to conduct temporary in-person, face-to-face  
9     practice, within the limits authorized under the Compact, in another  
10    compact state.

11      CC. Temporary in-person, face-to-face practice means the practice of  
12     psychology in which a psychologist is physically present, not through  
13     using telecommunications technologies, in the distant state to provide  
14     for the practice of psychology for thirty days within a calendar year and  
15    based on notification to the distant state.

16       ARTICLE III

17       HOME STATE LICENSURE

18       A. The home state shall be a compact state where a psychologist is  
19     licensed to practice psychology.

20       B. A psychologist may hold one or more compact state licenses at a  
21     time. If the psychologist is licensed in more than one compact state, the  
22     home state is the compact state where the psychologist is physically  
23     present when the services are delivered as authorized by the authority to  
24     practice interjurisdictional telepsychology under the terms of the  
25    Psychology Interjurisdictional Compact.

26       C. Any compact state may require a psychologist not previously  
27     licensed in a compact state to obtain and retain a license to be  
28     authorized to practice in the compact state under circumstances not  
29     authorized by the authority to practice interjurisdictional  
30     telepsychology under the terms of the Psychology Interjurisdictional  
31    Compact.

1       D. Any compact state may require a psychologist to obtain and retain  
2       a license to be authorized to practice in a compact state under  
3       circumstances not authorized by temporary authorization to practice under  
4       the terms of the Compact.

5       E. A home state's license authorizes a psychologist to practice in a  
6       receiving state under the authority to practice interjurisdictional  
7       telepsychology only if the compact state:

8           1. Currently requires the psychologist to hold an active E.Passport;  
9           2. Has a mechanism in place for receiving and investigating  
10          complaints about licensed individuals;

11           3. Notifies the Commission, in compliance with the terms of the  
12          Compact, of any adverse action or significant investigatory information  
13          regarding a licensed individual;

14           4. Requires an identity history summary of all applicants at initial  
15          licensure, including the use of the results of fingerprints or other  
16          biometric data checks compliant with the requirements of the Federal  
17          Bureau of Investigation, or other designee with similar authority, no  
18          later than ten years after activation of the Compact; and

19           5. Complies with the bylaws and rules of the Commission.

20       F. A home state's license grants temporary authorization to practice  
21       to a psychologist in a distant state only if the compact state:

22           1. Currently requires the psychologist to hold an active  
23          Interjurisdictional Practice Certificate;

24           2. Has a mechanism in place for receiving and investigating  
25          complaints about licensed individuals;

26           3. Notifies the Commission, in compliance with the terms of the  
27          Compact, of any adverse action or significant investigatory information  
28          regarding a licensed individual;

29           4. Requires an identity history summary of all applicants at initial  
30          licensure, including the use of the results of fingerprints or other  
31          biometric data checks compliant with the requirements of the Federal

1      Bureau of Investigation, or other designee with similar authority, no  
2      later than ten years after activation of the Compact; and  
3      5. Complies with the bylaws and rules of the Commission.

4      ARTICLE IV

5      COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

6      A. Compact states shall recognize the right of a psychologist,  
7      licensed in a compact state in conformance with Article III, to practice  
8      telepsychology in other compact states (receiving states) in which the  
9      psychologist is not licensed, under the authority to practice  
10     interjurisdictional telepsychology as provided in the Psychology  
11     Interjurisdictional Compact.

12     B. To exercise the authority to practice interjurisdictional  
13     telepsychology under the terms and provisions of the Compact, a  
14     psychologist licensed to practice in a compact state must:

15     1. Hold a graduate degree in psychology from an institute of higher  
16     education that was, at the time the degree was awarded:

17     a. Regionally accredited by an accrediting body recognized by the  
18     United States Department of Education to grant graduate degrees, or  
19     authorized by provincial statute or Royal Charter to grant doctoral  
20     degrees; or

21     b. A foreign college or university deemed to be equivalent to  
22     subdivision 1a of this subsection by a foreign credential evaluation  
23     service that is a member of the National Association of Credential  
24     Evaluation Services or by a recognized foreign credential evaluation  
25     service; and

26     2. Hold a graduate degree in psychology that meets the following  
27     criteria:

28     a. The program, wherever it may be administratively housed, must be  
29     clearly identified and labeled as a psychology program. Such a program  
30     must specify in pertinent institutional catalogues and brochures its  
31     intent to educate and train professional psychologists;

- 1        b. The psychology program must stand as a recognizable, coherent,  
2 organizational entity within the institution;
- 3        c. There must be a clear authority and primary responsibility for  
4 the core and specialty areas whether or not the program cuts across  
5 administrative lines;
- 6        d. The program must consist of an integrated, organized sequence of  
7 study;
- 8        e. There must be an identifiable psychology faculty sufficient in  
9 size and breadth to carry out its responsibilities;
- 10       f. The designated director of the program must be a psychologist and  
11 a member of the core faculty;
- 12       g. The program must have an identifiable body of students who are  
13 matriculated in that program for a degree;
- 14       h. The program must include supervised practicum, internship, or  
15 field training appropriate to the practice of psychology;
- 16       i. The curriculum shall encompass a minimum of three academic years  
17 of full-time graduate study for doctoral degrees and a minimum of one  
18 academic year of full-time graduate study for master's degrees;
- 19       j. The program includes an acceptable residency as defined by the  
20 rules of the Commission.
- 21       3. Possess a current, full, and unrestricted license to practice  
22 psychology in a home state which is a compact state;
- 23       4. Have no history of adverse action that violates the rules of the  
24 Commission;
- 25       5. Have no criminal record history reported on an identity history  
26 summary that violates the rules of the Commission;
- 27       6. Possess a current, active E.Passport;
- 28       7. Provide attestations in regard to areas of intended practice,  
29 conformity with standards of practice, competence in telepsychology  
30 technology; criminal background; and knowledge and adherence to legal  
31 requirements in the home and receiving states, and provide a release of

1    information to allow for primary source verification in a manner  
2    specified by the Commission; and

3        8. Meet other criteria as defined by the rules of the Commission.

4        C. The home state maintains authority over the license of any  
5    psychologist practicing into a receiving state under the authority to  
6    practice interjurisdictional telepsychology.

7        D. A psychologist practicing into a receiving state under the  
8    authority to practice interjurisdictional telepsychology will be subject  
9    to the receiving state's authority and laws. A receiving state may, in  
10   accordance with that state's due process law, limit or revoke a  
11   psychologist's authority to practice interjurisdictional telepsychology  
12   in the receiving state and may take any other necessary actions under the  
13   receiving state's applicable law to protect the health and safety of the  
14   receiving state's citizens. If a receiving state takes action, the state  
15   shall promptly notify the home state and the Commission.

16       E. If a psychologist's license in any home state, another compact  
17   state, or any authority to practice interjurisdictional telepsychology in  
18   any receiving state, is restricted, suspended, or otherwise limited, the  
19   E. Passport shall be revoked and therefor the psychologist shall not be  
20   eligible to practice telepsychology in a compact state under the  
21   authority to practice interjurisdictional telepsychology.

22       ARTICLE V

23       COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

24       A. Compact states shall also recognize the right of a psychologist,  
25   licensed in a compact state in conformance with Article III, to practice  
26   temporarily in other compact states (distant states) in which the  
27   psychologist is not licensed, as provided in the Psychology  
28   Interjurisdictional Compact.

29       B. To exercise the temporary authorization to practice under the  
30   terms and provisions of the Compact, a psychologist licensed to practice  
31   in a compact state must:

1       1. Hold a graduate degree in psychology from an institute of higher  
2       education that was, at the time the degree was awarded:

3           a. Regionally accredited by an accrediting body recognized by the  
4       United States Department of Education to grant graduate degrees, or  
5       authorized by provincial statute or Royal Charter to grant doctoral  
6       degrees; or

7           b. A foreign college or university deemed to be equivalent to  
8       subdivision 1a of this subsection by a foreign credential evaluation  
9       service that is a member of the National Association of Credential  
10      Evaluation Services or by a recognized foreign credential evaluation  
11      service; and

12       2. Hold a graduate degree in psychology that meets the following  
13      criteria:

14           a. The program, wherever it may be administratively housed, must be  
15       clearly identified and labeled as a psychology program. Such a program  
16       must specify in pertinent institutional catalogues and brochures its  
17       intent to educate and train professional psychologists;

18           b. The psychology program must stand as a recognizable, coherent,  
19       organizational entity within the institution;

20           c. There must be a clear authority and primary responsibility for  
21       the core and specialty areas whether or not the program cuts across  
22       administrative lines;

23           d. The program must consist of an integrated, organized sequence of  
24       study;

25           e. There must be an identifiable psychology faculty sufficient in  
26       size and breadth to carry out its responsibilities;

27           f. The designated director of the program must be a psychologist and  
28       a member of the core faculty;

29           g. The program must have an identifiable body of students who are  
30       matriculated in that program for a degree;

31           h. The program must include supervised practicum, internship, or

1    field training appropriate to the practice of psychology;  
2        i. The curriculum shall encompass a minimum of three academic years  
3    of full-time graduate study for doctoral degrees and a minimum of one  
4    academic year of full-time graduate study for master's degrees;  
5        j. The program includes an acceptable residency as defined by the  
6    rules of the Commission.

7            3. Possess a current, full, and unrestricted license to practice  
8    psychology in a home state which is a compact state;

9            4. No history of adverse action that violates the rules of the  
10   Commission;

11            5. No criminal record history that violates the rules of the  
12   Commission;

13            6. Possess a current, active Interjurisdictional Practice  
14   Certificate;

15            7. Provide attestations in regard to areas of intended practice and  
16   work experience and provide a release of information to allow for primary  
17   source verification in a manner specified by the Commission; and

18            8. Meet other criteria as defined by the rules of the Commission.

19            C. A psychologist practicing into a distant state under the  
20   temporary authorization to practice shall practice within the scope of  
21   practice authorized by the distant state.

22            D. A psychologist practicing into a distant state under the  
23   temporary authorization to practice will be subject to the distant  
24   state's authority and law. A distant state may, in accordance with that  
25   state's due process law, limit or revoke a psychologist's temporary  
26   authorization to practice in the distant state and may take any other  
27   necessary actions under the distant state's applicable law to protect the  
28   health and safety of the distant state's citizens. If a distant state  
29   takes action, the state shall promptly notify the home state and the  
30   Commission.

31            E. If a psychologist's license in any home state, another compact

1    state, or any temporary authorization to practice in any distant state,  
2    is restricted, suspended, or otherwise limited, the Interjurisdictional  
3    Practice Certificate shall be revoked and therefor the psychologist shall  
4    not be eligible to practice in a compact state under the temporary  
5    authorization to practice.

6        ARTICLE VI

7            CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

8        A psychologist may practice in a receiving state under the authority  
9    to practice interjurisdictional telepsychology only in the performance of  
10   the scope of practice for psychology as assigned by an appropriate state  
11   psychology regulatory authority, as defined in the rules of the  
12   Commission, and under the following circumstances:

13        1. The psychologist initiates a client or patient contact in a home  
14   state via telecommunications technologies with a client or patient in a  
15   receiving state;

16        2. Other conditions regarding telepsychology as determined by rules  
17   promulgated by the Commission.

18        ARTICLE VII

19            ADVERSE ACTIONS

20        A. A home state shall have the power to impose adverse action  
21   against a psychologist's license issued by the home state. A distant  
22   state shall the power to take adverse action on a psychologist's  
23   temporary authorization to practice within that distant state.

24        B. A receiving state may take adverse action on a psychologist's  
25   authority to practice interjurisdictional telepsychology within that  
26   receiving state. A home state may take adverse action against a  
27   psychologist based on an adverse action taken by a distant state  
28   regarding temporary in-person, face-to-face practice.

29        C. If a home state takes adverse action against a psychologist's  
30   license, that psychologist's authority to practice interjurisdictional  
31   telepsychology is terminated and the E.Passport is revoked. Furthermore,

1   that psychologist's temporary authorization to practice is terminated and  
2   the Interjurisdictional Practice Certificate is revoked.

3       1. All home state disciplinary orders which impose adverse action  
4   shall be reported to the Commission in accordance with the rules  
5   promulgated by the Commission. A compact state shall report adverse  
6   actions in accordance with the rules of the Commission.

7       2. In the event discipline is reported on a psychologist, the  
8   psychologist will not be eligible for telepsychology or temporary in-  
9   person, face-to-face practice in accordance with the rules of the  
10   Commission.

11       3. Other actions may be imposed as determined by the rules  
12   promulgated by the Commission.

13       D. A home state's state psychology regulatory authority shall  
14   investigate and take appropriate action with respect to reported  
15   inappropriate conduct engaged in by a licensee which occurred in a  
16   receiving state as it would if such conduct had occurred by a licensee  
17   within the home state. In such cases, the home state's law shall control  
18   in determining any adverse action against a psychologist's license.

19       E. A distant state's state psychology regulatory authority shall  
20   investigate and take appropriate action with respect to reported  
21   inappropriate conduct engaged in by a psychologist practicing under  
22   temporary authorization practice which occurred in that distant state as  
23   it would if such conduct had occurred by a licensee within the home  
24   state. In such cases, distant state's law shall control in determining  
25   any adverse action against a psychologist's temporary authorization to  
26   practice.

27       F. Nothing in the Psychology Interjurisdictional Compact shall  
28   override a compact state's decision that a psychologist's participation  
29   in an alternative program may be used in lieu of adverse action and that  
30   such participation shall remain nonpublic if required by the compact  
31   state's law. Compact states must require psychologists who enter any

1   alternative programs to not provide telepsychology services under the  
2   authority to practice interjurisdictional telepsychology or provide  
3   temporary psychological services under the temporary authorization to  
4   practice in any other compact state during the term of the alternative  
5   program.

6       G. No other judicial or administrative remedies shall be available  
7   to a psychologist in the event a compact state imposes an adverse action  
8   pursuant to subsection C of this Article.

9           ARTICLE VIII

10          ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S STATE  
11    PSYCHOLOGY REGULATORY AUTHORITY

12       In addition to any other powers granted under state law, a compact  
13   state's state psychology regulatory authority shall have the authority  
14   under the Psychology Interjurisdictional Compact to:

15        1. Issue subpoenas, for both hearings and investigations, which  
16   require the attendance and testimony of witnesses and the production of  
17   evidence. Subpoenas issued by a compact state's state psychology  
18   regulatory authority for the attendance and testimony of witnesses, or  
19   the production of evidence from another compact state shall be enforced  
20   in the latter state by any court of competent jurisdiction, according to  
21   that court's practice and procedure in considering subpoenas issued in  
22   its own proceedings. The issuing state psychology regulatory authority  
23   shall pay any witness fees, travel expenses, mileage fees, and other fees  
24   required by the service statutes of the state where the witnesses or  
25   evidence are located; and

26        2. Issue cease and desist orders, injunctive relief orders, or both  
27   to revoke a psychologist's authority to practice interjurisdictional  
28   telepsychology, temporary authorization to practice, or both.

29        3. During the course of any investigation, a psychologist may not  
30   change his or her home state licensure. A home state's state psychology  
31   regulatory authority is authorized to complete any pending investigations

1   of a psychologist and to take any actions appropriate under its law. The  
2   home state's state psychology regulatory authority shall promptly report  
3   the conclusions of such investigations to the Commission. Once an  
4   investigation has been completed, and pending the outcome of the  
5   investigation, the psychologist may change his or her home state  
6   licensure. The Commission shall promptly notify the new home state of any  
7   such decisions as provided in the rules of the Commission. All  
8   information provided to the Commission or distributed by compact states  
9   pursuant to the psychologist shall be confidential, filed under seal, and  
10   used for investigatory or disciplinary matters. The Commission may create  
11   additional rules for mandated or discretionary sharing of information by  
12   compact states.

13           ARTICLE IX

14           COORDINATED LICENSURE INFORMATION SYSTEM

15           A. The Commission shall provide for the development and maintenance  
16   of a Coordinated Licensure Information System (Coordinated Database) and  
17   reporting system containing licensure and disciplinary action information  
18   on all psychologists or individuals to whom the Psychology  
19   Interjurisdictional Compact is applicable in all compact states as  
20   defined by the rules of the Commission.

21           B. Notwithstanding any other provision of state law to the contrary,  
22   a compact state shall submit a uniform data set to the Coordinated  
23   Database on all licensees as required by the rules of the Commission,  
24   including:

- 25           1. Identifying information;
- 26           2. Licensure data;
- 27           3. Significant investigatory information;
- 28           4. Adverse actions against a psychologist's license;
- 29           5. An indicator that a psychologist's authority to practice  
30   interjurisdictional telepsychology or temporary authorization to practice  
31   is revoked;

1       6. Nonconfidential information related to alternative program  
2 participation information;

3       7. Any denial of application for licensure, and the reasons for such  
4 denial; and

5       8. Other information which may facilitate the administration of the  
6 Compact, as determined by the rules of the Commission.

7       C. The Coordinated Database administrator shall promptly notify all  
8 compact states of any adverse action taken against, or significant  
9 investigative information on, any licensee in a compact state.

10     D. Compact states reporting information to the Coordinated Database  
11 may designate information that may not be shared with the public without  
12 the express permission of the compact state reporting the information.

13     E. Any information submitted to the Coordinated Database that is  
14 subsequently required to be expunged by the law of the compact state  
15 reporting the information shall be removed from the Coordinated Database.

16     ARTICLE X

17     ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT  
18 COMMISSION

19     A. The compact states hereby create and establish a joint public  
20 agency known as the Psychology Interjurisdictional Compact Commission.

21     1. The Commission is a body politic and an instrumentality of the  
22 compact states.

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

29     3. Nothing in the Psychology Interjurisdictional Compact shall be  
30 construed to be a waiver of sovereign immunity.

31     B. Membership, Voting, and Meetings

1       1. The Commission shall consist of one voting representative  
2 appointed by each compact state who shall serve as that state's  
3 Commissioner. The state psychology regulatory authority shall appoint the  
4 state's delegate. This delegate shall be empowered to act on behalf of  
5 the compact state. This delegate shall be limited to:

- 6           a. Executive director, executive secretary, or similar executive;  
7           b. Current member of the state psychology regulatory authority of a  
8 compact state; or  
9           c. Designee empowered with the appropriate delegate authority to act  
10 on behalf of the compact state.

11          2. Any Commissioner may be removed or suspended from office as  
12 provided by the law of the state from which the Commissioner is  
13 appointed. Any vacancy occurring in the Commission shall be filled in  
14 accordance with the laws of the compact state in which the vacancy  
15 exists.

16          3. Each Commissioner shall be entitled to one vote with regard to  
17 the promulgation of rules and creation of bylaws and shall otherwise have  
18 an opportunity to participate in the business and affairs of the  
19 Commission. A Commissioner shall vote in person or by such other means as  
20 provided in the bylaws. The bylaws may provide for Commissioners'  
21 participation in meetings by telephone or other means of communication.

22          4. The Commission shall meet at least once during each calendar  
23 year. Additional meetings shall be held as set forth in the bylaws.

24          5. All meetings shall be open to the public, and public notice of  
25 meetings shall be given in the same manner as required under the  
26 rulemaking provisions in Article XI.

27          6. The Commission may convene in a closed, nonpublic meeting if the  
28 Commission must discuss:

- 29           a. Noncompliance of a compact state with its obligations under the  
30 Compact;  
31           b. The employment, compensation, discipline, or other personnel

1      matters, practices, or procedures related to specific employees or other  
2      matters related to the Commission's internal personnel practices and  
3      procedures;

4            c. Current, threatened, or reasonably anticipated litigation against  
5      the Commission;

6            d. Negotiation of contracts for the purchase or sale of goods,  
7      services, or real estate;

8            e. Accusation against any person of a crime or formally censuring  
9      any person;

10          f. Disclosure of trade secrets or commercial or financial  
11      information which is privileged or confidential;

12          g. Disclosure of information of a personal nature where disclosure  
13      would constitute a clearly unwarranted invasion of personal privacy;

14          h. Disclosure of investigatory records compiled for law enforcement  
15      purposes;

16          i. Disclosure of information related to any investigatory reports  
17      prepared by or on behalf of or for use of the Commission or other  
18      committee charged with responsibility for investigation or determination  
19      of compliance issues pursuant to the Compact; or

20          j. Matters specifically exempted from disclosure by federal and  
21      state statute.

22          7. If a meeting, or portion of a meeting, is closed pursuant to this  
23      Article, the Commission's legal counsel or designee shall certify that  
24      the meeting may be closed and shall reference each relevant exempting  
25      provision. The Commission shall keep minutes which fully and clearly  
26      describe all matters discussed in a meeting and shall provide a full and  
27      accurate summary of actions taken, of any person participating in the  
28      meeting, and the reasons therefore, including a description of the views  
29      expressed. All documents considered in connection with an action shall be  
30      identified in such minutes. All minutes and documents of a closed meeting  
31      shall remain under seal, subject to release only by a majority vote of

1     the Commission or order of a court of competent jurisdiction.

2       C. The Commission shall, by a majority vote of the Commissioners,  
3     prescribe bylaws or rules to govern its conduct as may be necessary or  
4     appropriate to carry out the purposes and exercise the powers of the  
5     Compact, including, but not limited to:

6       1. Establishing the fiscal year of the Commission;

7       2. Providing reasonable standards and procedures:

8           a. For the establishment and meetings of other committees; and

9           b. Governing any general or specific delegation of any authority or  
10     function of the Commission;

11       3. Providing reasonable procedures for calling and conducting  
12     meetings of the Commission, ensuring reasonable advance notice of all  
13     meetings and providing an opportunity for attendance of such meetings by  
14     interested parties, with enumerated exceptions designed to protect the  
15     public's interest, the privacy of individuals of such proceedings, and  
16     proprietary information, including trade secrets. The Commission may meet  
17     in closed session only after a majority of the Commissioners vote to  
18     close a meeting to the public in whole or in part. As soon as  
19     practicable, the Commission must make public a copy of the vote to close  
20     the meeting revealing the vote of each Commissioner with no proxy votes  
21     allowed;

22       4. Establishing the titles, duties, and authority and reasonable  
23     procedures for the election of the officers of the Commission;

24       5. Providing reasonable standards and procedures for the  
25     establishment of the personnel policies and programs of the Commission.  
26     Notwithstanding any civil service or other similar law of any compact  
27     state, the bylaws shall exclusively govern the personnel policies and  
28     programs of the Commission;

29       6. Promulgating a code of ethics to address permissible and  
30     prohibited activities of Commission members and employees;

31       7. Providing a mechanism for concluding the operations of the

1     Commission and the equitable disposition of any surplus funds that may  
2     exist after the termination of the Compact after the payment, reserving,  
3     or both of all of its debts and obligations;

4         8. The Commission shall publish its bylaws in a convenient form and  
5     file a copy thereof and a copy of any amendment thereto, with the  
6     appropriate agency or officer in each of the compact states;

7         9. The Commission shall maintain its financial records in accordance  
8     with the bylaws; and

9         10. The Commission shall meet and take such actions as are  
10   consistent with the provisions of the Compact and the bylaws.

11         D. The Commission shall have the following powers:

12         1. The authority to promulgate uniform rules to facilitate and  
13   coordinate implementation and administration of the Compact. The rules  
14   shall have the force and effect of law and shall be binding in all  
15   compact states;

16         2. To bring and prosecute legal proceedings or actions in the name  
17   of the Commission, provided that the standing of any state psychology  
18   regulatory authority or other regulatory body responsible for psychology  
19   licensure to sue or be sued under applicable law shall not be affected;

20         3. To purchase and maintain insurance and bonds;

21         4. To borrow, accept, or contract for services of personnel,  
22   including, but not limited to, employees of a compact state;

23         5. To hire employees, elect or appoint officers, fix compensation,  
24   define duties, grant such individuals appropriate authority to carry out  
25   the purposes of the Compact, and to establish the Commission's personnel  
26   policies and programs relating to conflicts of interest, qualifications  
27   of personnel, and other related personnel matters;

28         6. To accept any and all appropriate donations and grants of money,  
29   equipment, supplies, materials, and services, and to receive, utilize,  
30   and dispose of the same; provided that at all times the Commission shall  
31   strive to avoid any appearance of impropriety or conflict of interest;

1       7. To lease, purchase, accept appropriate gifts or donations of, or  
2       otherwise to own, hold, improve or use, any property, real, personal, or  
3       mixed; provided that at all times the Commission shall strive to avoid  
4       any appearance of impropriety;

5       8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or  
6       otherwise dispose of any property real, personal, or mixed;

7       9. To establish a budget and make expenditures;

8       10. To borrow money;

9       11. To appoint committees, including advisory committees comprised  
10      of members, state regulators, state legislators or their representatives,  
11      and consumer representatives, and such other interested persons as may be  
12      designated in the Compact and the bylaws;

13      12. To provide and receive information from, and to cooperate with,  
14      law enforcement agencies;

15      13. To adopt and use an official seal; and

16      14. To perform such other functions as may be necessary or  
17      appropriate to achieve the purposes of the Compact consistent with the  
18      state regulation of psychology licensure, temporary in-person, face-to-  
19      face practice, and telepsychology practice.

20      E. The Executive Board

21      The elected officers shall serve as the Executive Board, which shall  
22      have the power to act on behalf of the Commission according to the terms  
23      of the Compact.

24      1. The Executive Board shall be comprised of six members:

25      a. Five voting members who are elected from the current membership  
26      of the Commission by the Commission; and

27      b. One ex-officio, nonvoting member from the recognized membership  
28      organization composed of State and Provincial Psychology Regulatory  
29      Authorities.

30      2. The ex-officio member must have served as staff or member on a  
31      state psychology regulatory authority and will be selected by its

1     respective organization.

2         3. The Commission may remove any member of the Executive Board as  
3     provided in bylaws.

4         4. The Executive Board shall meet at least annually.

5         5. The Executive Board shall have the following duties and  
6     responsibilities:

7             a. Recommend to the entire Commission changes to the rules or  
8     bylaws, changes to the Compact, fees paid by compact states such as  
9     annual dues, and any other applicable fees;

10          b. Ensure Compact administration services are appropriately  
11     provided, contractual or otherwise;

12          c. Prepare and recommend the budget;

13          d. Maintain financial records on behalf of the Commission;

14          e. Monitor Compact compliance of member states and provide  
15     compliance reports to the Commission;

16          f. Establish additional committees as necessary; and

17          g. Other duties as provided in rules or bylaws.

18     F. Financing of the Commission

19          1. The Commission shall pay, or provide for the payment of, the  
20     reasonable expenses of its establishment, organization, and ongoing  
21     activities.

22          2. The Commission may accept any and all appropriate revenue  
23     sources, donations, and grants of money, equipment, supplies, materials,  
24     and services.

25          3. The Commission may levy on and collect an annual assessment from  
26     each compact state or impose fees on other parties to cover the cost of  
27     the operations and activities of the Commission and its staff which must  
28     be in a total amount sufficient to cover its annual budget as approved  
29     each year for which revenue is not provided by other sources. The  
30     aggregate annual assessment amount shall be allocated based upon a  
31     formula to be determined by the Commission which shall promulgate a rule

1       binding upon all compact states.

2           4. The Commission shall not incur obligations of any kind prior to  
3       securing the funds adequate to meet the same; nor shall the Commission  
4       pledge the credit of any of the compact states, except by and with the  
5       authority of the compact state.

6           5. The Commission shall keep accurate accounts of all receipts and  
7       disbursements. The receipts and disbursements of the Commission shall be  
8       subject to the audit and accounting procedures established under its  
9       bylaws. However, all receipts and disbursements of funds handled by the  
10      Commission shall be audited yearly by a certified or licensed public  
11      accountant and the report of the audit shall be included in and become  
12      part of the annual report of the Commission.

13           G. Qualified Immunity, Defense, and Indemnification

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

26           2. The Commission shall defend any member, officer, executive  
27       director, employee, or representative of the Commission in any civil  
28       action seeking to impose liability arising out of any actual or alleged  
29       act, error, or omission that occurred within the scope of Commission  
30       employment, duties, or responsibilities, or that the person against whom  
31       the claim is made had a reasonable basis for believing occurred within

1   the scope of Commission employment, duties, or responsibilities; provided  
2   that nothing in this paragraph shall be construed to prohibit that person  
3   from retaining his or her own counsel; and provided further, that the  
4   actual or alleged act, error, or omission did not result from that  
5   person's intentional or willful or wanton misconduct.

6       3. The Commission shall indemnify and hold harmless any member,  
7   officer, executive director, employee, or representative of the  
8   Commission for the amount of any settlement or judgment obtained against  
9   that person arising out of any actual or alleged act, error, or omission  
10   that occurred within the scope of Commission employment, duties, or  
11   responsibilities, or that such person had a reasonable basis for  
12   believing occurred within the scope of Commission employment, duties, or  
13   responsibilities, provided that the actual or alleged act, error, or  
14   omission did not result from the intentional or willful or wanton  
15   misconduct of that person.

16       **ARTICLE XI**

17       **RULEMAKING**

18       A. The Commission shall exercise its rulemaking powers pursuant to  
19   the criteria set forth in this Article and the rules adopted thereunder.  
20   Rules and amendments shall become binding as of the date specified in  
21   each rule or amendment.

22       B. If a majority of the legislatures of the compact states rejects a  
23   rule, by enactment of a statute or resolution in the same manner used to  
24   adopt the Psychology Interjurisdictional Compact, then such rule shall  
25   have no further force and effect in any compact state.

26       C. Rules or amendments to the rules shall be adopted at a regular or  
27   special meeting of the Commission.

28       D. Prior to promulgation and adoption of a final rule or rules by  
29   the Commission, and at least sixty days in advance of the meeting at  
30   which the rule will be considered and voted upon, the Commission shall  
31   file a notice of proposed rulemaking:

1       1. On the web site of the Commission; and  
2       2. On the web site of each compact state's state psychology  
3       regulatory authority or the publication in which each state would  
4       otherwise publish proposed rules.

5       E. The notice of proposed rulemaking shall include:

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

8       2. The text of the proposed rule or amendment and the reason for the  
9       proposed rule;

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

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

15      F. Prior to adoption of a proposed rule, the Commission shall allow  
16      persons to submit written data, facts, opinions, and arguments, which  
17      shall be made available to the public.

18      G. The Commission shall grant an opportunity for a public hearing  
19      before it adopts a rule or amendment if a hearing is requested by:

20      1. At least twenty-five persons who submit comments independently of  
21      each other;

22      2. A governmental subdivision or agency; or

23      3. A duly appointed person in an association that has at least  
24      twenty-five members.

25      H. If a hearing is held on the proposed rule or amendment, the  
26      Commission shall publish the place, time, and date of the scheduled  
27      public hearing.

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

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

4       3. No transcript of the hearing is required, unless a written  
5       request for a transcript is made, in which case the person requesting the  
6       transcript shall bear the cost of producing the transcript. A recording  
7       may be made in lieu of a transcript under the same terms and conditions  
8       as a transcript. This subsection shall not preclude the Commission from  
9       making a transcript or recording of the hearing if it so chooses.

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

13      I. Following the scheduled hearing date, or by the close of business  
14       on the scheduled hearing date if the hearing was not held, the Commission  
15       shall consider all written and oral comments received.

16      J. The Commission shall, by majority vote of all members, take final  
17       action on the proposed rule and shall determine the effective date of the  
18       rule, if any, based on the rulemaking record and the full text of the  
19       rule.

20      K. If no written notice of intent to attend the public hearing by  
21       interested parties is received, the Commission may proceed with  
22       promulgation of the proposed rule without a public hearing.

23      L. Upon determination that an emergency exists, the Commission may  
24       consider and adopt an emergency rule without prior notice, opportunity  
25       for comment, or hearing, provided that the usual rulemaking procedures  
26       provided in the Compact and in this section shall be retroactively  
27       applied to the rule as soon as reasonably possible, in no event later  
28       than ninety days after the effective date of the rule. For the purposes  
29       of this paragraph, an emergency rule is one that must be adopted  
30       immediately in order to:

31       1. Meet an imminent threat to public health, safety, or welfare;

1       2. Prevent a loss of Commission or compact state funds;  
2       3. Meet a deadline for the promulgation of an administrative rule  
3       that is established by federal law or rule; or  
4       4. Protect public health and safety.

5       M. The Commission or an authorized committee of the Commission may  
6       direct revisions to a previously adopted rule or amendment for purposes  
7       of correcting typographical errors, errors in format, errors in  
8       consistency, or grammatical errors. Public notice of any revisions shall  
9       be posted on the web site of the Commission. The revision shall be  
10      subject to challenge by any person for a period of thirty days after  
11      posting. The revision may be challenged only on grounds that the revision  
12      results in a material change to a rule. A challenge shall be made in  
13      writing, and delivered to the chair of the Commission prior to the end of  
14      the notice period. If no challenge is made, the revision will take effect  
15      without further action. If the revision is challenged, the revision may  
16      not take effect without the approval of the Commission.

17      ARTICLE XII

18      OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

19      A. Oversight

20      1. The executive, legislative, and judicial branches of state  
21      government in each compact state shall enforce the Psychology  
22      Interjurisdictional Compact and take all actions necessary and  
23      appropriate to effectuate the Compact's purposes and intent. The Compact  
24      and the rules promulgated under the Compact shall have standing as  
25      statutory law.

26      2. All courts shall take judicial notice of the Compact and the  
27      rules in any judicial or administrative proceeding in a compact state  
28      pertaining to the subject matter of the Compact which may affect the  
29      powers, responsibilities, or actions of the Commission.

30      3. The Commission shall be entitled to receive service of process in  
31      any such proceeding and shall have standing to intervene in such a

1 proceeding for all purposes. Failure to provide service of process to the  
2 Commission shall render a judgment or order void as to the Commission,  
3 the Compact, or promulgated rules.

4 B. Default, Technical Assistance, and Termination

5 1. If the Commission determines that a compact state has defaulted  
6 in the performance of its obligations or responsibilities under the  
7 Compact or the promulgated rules, the Commission shall:

8 a. Provide written notice to the defaulting state and other compact  
9 states of the nature of the default, the proposed means of remedying the  
10 default, or any other action to be taken by the Commission; and

11 b. Provide remedial training and specific technical assistance  
12 regarding the default.

13 2. If a state in default fails to remedy the default, the defaulting  
14 state may be terminated from the Compact upon an affirmative vote of a  
15 majority of the compact states, and all rights, privileges, and benefits  
16 conferred by the Compact shall be terminated on the effective date of  
17 termination. A remedy of the default does not relieve the offending state  
18 of obligations or liabilities incurred during the period of default.

19 3. Termination of membership in the Compact shall be imposed only  
20 after all other means of securing compliance have been exhausted. Notice  
21 of intent to suspend or terminate shall be submitted by the Commission to  
22 the Governor, the majority and minority leaders of the defaulting state's  
23 legislature or the Speaker if no such leaders exist, and each of the  
24 compact states.

25 4. A compact state which has been terminated is responsible for all  
26 assessments, obligations, and liabilities incurred through the effective  
27 date of termination, including obligations which extend beyond the  
28 effective date of termination.

29 5. The Commission shall not bear any costs incurred by the state  
30 which is found to be in default or which has been terminated from the  
31 Compact, unless agreed upon in writing between the Commission and the

1   defaulting state.

2       6. The defaulting state may appeal the action of the Commission by  
3   petitioning the United States District Court for the State of Georgia or  
4   the federal district where the Compact has its principal offices. The  
5   prevailing member shall be awarded all costs of such litigation,  
6   including reasonable attorney's fees.

7       C. Dispute Resolution

8       1. Upon request by a compact state, the Commission shall attempt to  
9   resolve disputes related to the Compact which arise among compact states  
10   and between Compact and noncompact states.

11       2. The Commission shall promulgate a rule providing for both  
12   mediation and binding dispute resolution for disputes that arise before  
13   the Commission.

14       D. Enforcement

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

17       2. By majority vote, the Commission may initiate legal action in the  
18   United States District Court for the State of Georgia or the federal  
19   district where the Compact has its principal offices against a compact  
20   state in default to enforce compliance with the provisions of the Compact  
21   and its promulgated rules and bylaws. The relief sought may include both  
22   injunctive relief and damages. In the event judicial enforcement is  
23   necessary, the prevailing member shall be awarded all costs of such  
24   litigation, including reasonable attorney's fees.

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

28       ARTICLE XIII

29       DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT  
30   COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

31       A. The Psychology Interjurisdictional Compact shall come into effect

1   on the date on which the Compact is enacted into law in the seventh  
2   compact state. The provisions which become effective at that time shall  
3   be limited to the powers granted to the Commission relating to assembly  
4   and the promulgation of rules. Thereafter, the Commission shall meet and  
5   exercise rulemaking powers necessary to the implementation and  
6   administration of the Compact.

7           B. Any state which joins the Compact subsequent to the Commission's  
8   initial adoption of the rules shall be subject to the rules as they exist  
9   on the date on which the Compact becomes law in that state. Any rule  
10   which has been previously adopted by the Commission shall have the full  
11   force and effect of law on the day the Compact becomes law in that state.

12           C. Any compact state may withdraw from this Compact by enacting a  
13   statute repealing the same.

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

16           2. Withdrawal shall not affect the continuing requirement of the  
17   withdrawing state's state psychology regulatory authority to comply with  
18   the investigative and adverse action reporting requirements of the  
19   Compact prior to the effective date of withdrawal.

20           D. Nothing contained in the Compact shall be construed to invalidate  
21   or prevent any psychology licensure agreement or other cooperative  
22   arrangement between a compact state and a noncompact state which does not  
23   conflict with the Compact.

24           E. The Compact may be amended by the compact states. No amendment to  
25   the Compact shall become effective and binding upon any compact state  
26   until it is enacted into the law of all compact states.

27           ARTICLE XIV

28           CONSTRUCTION AND SEVERABILITY

29           The Psychology Interjurisdictional Compact shall be liberally  
30   construed so as to effectuate the purposes of the Compact. If the Compact  
31   shall be held contrary to the constitution of any state which is a member

1   of the Compact, the Compact shall remain in full force and effect as to  
2   the remaining compact states.

3           Sec. 71. Section 77-2704.12, Revised Statutes Cumulative Supplement,  
4   2016, is amended to read:

5           77-2704.12 (1) Sales and use taxes shall not be imposed on the gross  
6   receipts from the sale, lease, or rental of and the storage, use, or  
7   other consumption in this state of purchases by (a) any nonprofit  
8   organization created exclusively for religious purposes, (b) any  
9   nonprofit organization providing services exclusively to the blind, (c)  
10   any nonprofit private educational institution established under sections  
11   79-1601 to 79-1607, (d) any regionally or nationally accredited,  
12   nonprofit, privately controlled college or university with its primary  
13   campus physically located in Nebraska, (e) any nonprofit (i) hospital,  
14   (ii) health clinic when one or more hospitals or the parent corporations  
15   of the hospitals own or control the health clinic for the purpose of  
16   reducing the cost of health services or when the health clinic receives  
17   federal funds through the United States Public Health Service for the  
18   purpose of serving populations that are medically underserved, (iii)  
19   skilled nursing facility, (iv) intermediate care facility, (v) assisted-  
20   living facility, (vi) intermediate care facility for persons with  
21   developmental disabilities, (vii) nursing facility, (viii) home health  
22   agency, (ix) hospice or hospice service, (x) respite care service, (xi)  
23   mental health substance use treatment center licensed under the Health  
24   Care Facility Licensure Act, or (xii) substance abuse treatment center  
25   licensed under the Health Care Facility Licensure Act, or (xiii) center  
26   for independent living as defined in 29 U.S.C. 796a, (f) any nonprofit  
27   licensed residential child-caring agency, (g) any nonprofit licensed  
28   child-placing agency, or (h) any nonprofit organization certified by the  
29   Department of Health and Human Services to provide community-based  
30   services for persons with developmental disabilities.

31           (2) Any organization listed in subsection (1) of this section shall

1 apply for an exemption on forms provided by the Tax Commissioner. The  
2 application shall be approved and a numbered certificate of exemption  
3 received by the applicant organization in order to be exempt from the  
4 sales and use tax.

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

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

24 (5) Any person purchasing, storing, using, or otherwise consuming  
25 building materials in the performance of any construction, improvement,  
26 or repair by or for any institution enumerated in subsection (1) of this  
27 section which is licensed upon completion although not licensed at the  
28 time of construction or improvement, which building materials are annexed  
29 to real estate and which subsequently belong to the owner of the  
30 institution, shall pay any applicable sales or use tax thereon. Upon  
31 becoming licensed and receiving a numbered certificate of exemption, the

1 institution organized not for profit shall be entitled to a refund of the  
2 amount of taxes so paid in the performance of such construction,  
3 improvement, or repair and shall submit whatever evidence is required by  
4 the Tax Commissioner sufficient to establish the total sales and use tax  
5 paid upon the building materials physically annexed to real estate in the  
6 construction, improvement, or repair.

7 Sec. 72. Original sections 38-122, 38-131, 38-321, 38-1201,  
8 38-1204, 38-1205, 38-1208, 38-1215, 38-1216, 38-1219, 38-1221, 38-1224,  
9 38-1225, 38-1229, 38-1232, 38-1237, 38-2025, 38-2026, 38-2104, 38-2112,  
10 38-2115, 38-2117, 38-2122, 38-2123, 38-2124, 38-2518, 38-2519, 38-2521,  
11 38-2826.01, 38-3101, 38-3111, 44-772, 44-792, 69-2429, 71-423, 71-430,  
12 71-507, 71-906, and 71-1913, Reissue Revised Statutes of Nebraska,  
13 sections 71-403, 71-413, 71-474, 71-1908, 71-2411, 71-4204, 71-4205,  
14 71-4209, and 77-2704.12, Revised Statutes Cumulative Supplement, 2016,  
15 and sections 28-401, 28-470, 29-2261, 38-319, 38-1217, 38-1218, 38-2125,  
16 71-401, 71-2445, and 71-2454, Revised Statutes Supplement, 2017, are  
17 repealed.