

LEGISLATIVE BILL 1100

Approved by the Governor April 7, 1988

Introduced by Health & Human Services Committee,
 Wesely, 26, Chairperson; Beyer, 3;
 Bernard-Stevens, 42; Goodrich, 20;
 Morehead, 30; Schellpeper, 18; Lynch, 13

AN ACT relating to public health and welfare; to amend sections 28-1437, 44-2804, 71-102, 71-107, 71-112, 71-121, 71-131, 71-133, 71-139.01, 71-150, 71-155, 71-161.01, 71-161.03 to 71-161.05, 71-161.07, 71-163, 71-175, 71-179, 71-185, 71-193.04, 71-193.25, 71-193.31, 71-1,132.08, 71-1,132.20, 71-1,132.29, 71-1,136.01, 71-1,142, 71-1,147.03 to 71-1,147.08, 71-1,147.10, 71-1,147.12, 71-1,153 to 71-1,155, 71-1,157, 71-1,160 to 71-1,163, 71-1,180, 71-1,186, 71-1,190, 71-1,194, 71-1,195.01, 71-1,195.03 to 71-1,195.09, 71-1,211, 71-1,212, 71-1,223 to 71-1,225, 71-1,232, 71-1,233, 71-1,258, 71-1,262, 71-1,265, 71-1,266, 71-1,268 to 71-1,270, 71-1,274, 71-1,277, 71-1331, 71-1332, 71-1345, 71-1724, 71-2023, 71-2041.01, 71-2512, 71-2702, 71-2705, 71-2712, 71-2802 to 71-2804, 71-2807, 71-2814, 71-3710 to 71-3712, 71-4702, 71-4704, 71-4710 to 71-4712, 71-4714, 71-4715, 71-4716, 71-4718, 71-4719, 71-5101, 71-5110, 71-5113, 71-5407, 71-5502, 71-5508, 71-5518, 71-5520, 71-5819, 71-6105, 71-6111, 71-6114, and 81-651, Reissue Revised Statutes of Nebraska, 1943, section 33-150, Revised Statutes Supplement, 1986, sections 71-101, 71-110, 71-113, 71-114, 71-116, 71-147, 71-148, 71-149, 71-162, 71-195, 71-198, 71-1,132.07, 71-1,135.02, 71-1,136.03, 71-1,147.09, 71-1,158, 71-1,178, 71-1,183, 71-1,195.02, 71-1,267, 71-1,271, 71-1,275, 71-3,106, 71-3,171, 71-519, 71-1330, 71-1333, 71-2017.01, 71-2701, 71-4701, 71-4706, 71-4707, 71-4708, 71-5102, 71-5111, and 71-6115, Revised Statutes Supplement, 1987, and Laws 1987, LB 390, section 26; to restate intent; to define and redefine terms; to change and eliminate provisions relating to

issuance, denial, renewal, reinstatement, and lapse of, disciplinary actions regarding, qualifications, requirements, examinations, and fees for, and unlawful acts, violations, and penalties concerning temporary and permanent licenses, certificates, permits, and registrations; to provide, change, and eliminate powers and duties; to change provisions relating to certain boards; to change provisions relating to inspections, supervision, and disclosure of information; to authorize the imposition of disciplinary measures and fines on certain health care facilities as prescribed; to provide for the regulation and change the scope of practice of certain health care personnel as prescribed; to create a fund; to change and eliminate provisions relating to intermediate care facilities for the mentally retarded; to change an operative date for provisions relating to X-ray system operators; to provide a duty for the Revisor of Statutes; to eliminate duties of the Revisor of Statutes relating to substitution of terms; to eliminate provisions relating to permits and certificates to practice veterinary medicine and surgery issued prior to July 24, 1927; to eliminate provisions relating to a published list of professionals; to eliminate the Prophylactic Control Act; to harmonize provisions; to provide operative dates; to repeal the original sections, and also sections 71-101.02, 71-134 to 71-134.03, 71-155.01, 71-155.02, 71-161.08, 71-180.01 to 71-180.05, 71-192, 71-1,151, 71-1,164, 71-1,165, 71-1,167, 71-1,177, 71-1,179, 71-1,182, 71-1,197.01, 71-1,215 to 71-1,217, 71-1,272, 71-1,276, 71-1104 to 71-1106, 71-1108 to 71-1110, 71-1112, 71-1114, 71-1115, 71-1334, 71-1335, 71-2017.05, 71-2704, 71-2706 to 71-2711, 71-2713, 71-2714, 71-2716 to 71-2719, 71-2806, 71-2813, 71-2818, and 71-4713, Reissue Revised Statutes of Nebraska, 1943, and sections 71-1107, 71-1111, 71-2703, 71-2704.01, and 71-2715, Revised Statutes Supplement, 1987; and to declare an emergency.

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

Section 1. That section 28-1437, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1437. (1) It shall be unlawful for any person knowingly or intentionally to possess or to acquire or obtain or to attempt to acquire or obtain by means of misrepresentation, fraud, forgery, deception, or subterfuge possession of any drug substance not classified as a controlled substance under Chapter 28, article 4, but which can only be lawfully distributed, under federal statutes in effect on July 10, 1976, upon the written or oral order of a duly licensed physician, dentist, osteopathic physician, ~~or~~ podiatrist, veterinarian, or optometrist.

(2) Such substances as referred to in subsection (1) of this section shall be known as legend drug substances, which shall be defined as including all drug substances not classified as controlled substances under Chapter 28, article 4, but which require a written or oral prescription from a duly licensed practitioner authorized under the laws of the State of Nebraska to prescribe such substances and which may only be lawfully dispensed by a duly licensed pharmacist, in accordance with the provisions of the Federal Food, Drug and Cosmetic Act, Title 21, United States Code, sections 301 to 392, in effect on July 10, 1976.

Sec. 2. That section 33-150, Revised Statutes Supplement, 1986, be amended to read as follows:

33-150. The State Treasurer shall credit to the General Fund of the state fifteen percent of all fees remitted to the state treasury by the state boards of examiners in medicine and surgery, chiropractic, respiratory care, dentistry, including fees from dental hygienists, social work, athletic training, massage therapy, professional counseling, optometry, pharmacy, embalming and funeral directing, including fees received from funeral establishments as well as embalmers and funeral directors, podiatry, and veterinary medicine, the Board of Occupational Therapy Practice, the Board of Cosmetology Examiners, the Board of Barber Examiners, the Board of Nursing, the State Real Estate Commission, the Brand Fund of the Secretary of State, the State Board of Examiners for Professional Engineers and Architects, the State Athletic Commissioner, the Nebraska Oil and Gas Conservation Commission pursuant to sections 57-906 and 57-911, and any other state board, bureau, division, fund, or commission not mentioned above, if and when fifteen percent of all such fees remitted into the treasury ~~be is~~ appropriated or reappropriated to the General Fund of the state by the

Legislature for the uses and purposes of the General Fund during any biennium. Nothing in this section shall be construed to apply to the fees inuring to the Nebraska Brand Inspection and Theft Prevention Fund and funds of the State Racing Commission.

Sec. 3. That section 44-2804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2804. Physician shall mean a person with an unlimited license to practice medicine in this state pursuant to sections 71-1,102 to 71-1,107.14 or a person with a license to practice osteopathic medicine or osteopathic medicine and surgery in this state pursuant to sections 71-1,137 to 71-1,141.

Sec. 4. That section 71-101, Revised Statutes Supplement, 1987, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,277, 71-1325 to 71-1354, and 71-2801 to 71-2822 and sections 31 and 132 to 138 of this act shall be known and may be cited as the Uniform Licensing Law.

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

(1) Board of examiners or board shall mean one of the boards appointed by the State Board of Health;

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

(3) Profession or health profession shall mean and refer to any of the several groups named in section 71-102;

(4) Department shall mean the Department of Health;

(5) Whenever the masculine gender is used, it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of the Uniform Licensing Law;

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

(7) Certificate, certify, or certification, with respect to professions, shall mean a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use certified in the title

or designation to perform prescribed health professional tasks. When appropriate, certificate shall also mean a document issued by the department which designates particular credentials for an individual; and

(8) Lapse shall mean the termination of the right or privilege to represent oneself as a licensed or certified person and to practice the profession when a license is required to do so.

Sec. 5. That section 71-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-102. (1) No person shall engage in the practice of medicine and surgery, athletic training, respiratory care, osteopathy, chiropractic, dentistry, dental hygiene, pharmacy, podiatry, optometry, massage therapy, physical therapy, audiology, speech-language pathology, embalming, funeral directing, psychology, or veterinary medicine and surgery, as defined in the Uniform Licensing Law, unless such person shall have obtained from the Department of Health a license for that purpose.

(2) No person shall hold himself or herself out as a certified social worker or certified master social worker unless such person shall have obtained from the department a certificate for that purpose.

(3) No person shall hold himself or herself out as a certified professional counselor unless such person has obtained from the department a certificate for such purpose.

Sec. 6. That section 71-107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-107. Every person licensed or certified under the Uniform Licensing Law to practice a profession shall keep such license or certificate displayed in the office or place in which he or she practices and place and keep placed, in a conspicuous place at each entrance thereto, a sign, in intelligible lettering not less than one inch in height, containing the name of such person immediately followed by the recognized abbreviation indicating the professional degree, if any, held by such person. In addition to the foregoing, those persons licensed or certified to practice osteopathy, chiropractic, podiatry, optometry, audiology, speech-language pathology, professional counseling, social work, massage therapy, or physical therapy shall cause to be placed upon such signs, in lettering of equal height, the word Osteopath, Chiropractor, Podiatrist, Optometrist, Audiologist, Speech-Language

Pathologist, Professional Counselor, Social Worker, Massage Therapist, or Physical Therapist, as the case may be. The same wording shall be used in all signs, announcements, stationery, and advertisements of such licensees and certificate holders.

Sec. 7. That section 71-110, Revised Statutes Supplement, 1987, be amended to read as follows:

71-110. (1) The different licenses or certificates shall be renewed biennially, except as provided in sections 71-1,228, 71-1,263, and 71-1,275, upon request of the licensee or certificate holder without examination. The biennial license or certificate renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the board, shall establish by rule and regulation. The biennial expiration date in the different professions shall be as follows: January, pharmacy and psychology; February, embalming and funeral directing; March, dentistry and dental hygiene; April, podiatry and veterinary medicine and surgery; May, athletic training; June, respiratory care; August, chiropractic and optometry; September, osteopathy and professional counseling; October, medicine and surgery and social work; November, massage therapy and physical therapy; and December, audiology and speech-language pathology. and professional counseling. The request for renewal need not be in any particular form and shall be accompanied by the legal fee. Such fee shall be paid not later than the date of the expiration of such license or certificate, except that while actively engaged in the military service of the United States, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940 as amended, persons licensed or certified to practice the professions above named shall not be required to pay the renewal license or certificate fee.

(2) When an individual licensed or certified pursuant to the Uniform Licensing Law desires to have his or her license or certificate lapse upon expiration, he or she shall notify the department of such desire in writing. The department shall notify the licensee or certificate holder in writing of the acceptance or denial of the request to allow the license or certificate to lapse. When the lapsed status becomes effective, the right to represent himself or herself as a licensee or certificate holder and to practice the profession in which such license is required shall terminate. To restore the license or certificate, such individual shall be required to meet the requirements

for licensure or certification which are in effect at the time that he or she wishes to restore the license or certificate.

(3) When an individual licensed or certified pursuant to the Uniform Licensing Law desires to have his or her license or certificate placed on inactive status upon its expiration, he or she shall notify the department of such desire in writing and pay a fee of thirty-five dollars. The department shall notify the licensee or certificate holder in writing of the acceptance or denial of the request to allow the license or certificate to be placed on inactive status. When the license or certificate is placed on inactive status, the licensee or certificate holder shall not engage in the practice of such profession. A license or certificate may remain on inactive status for an indefinite period of time. In order to move a license or certificate from inactive to active status, an individual shall complete the continuing education requirements in effect at the time he or she wishes to regain active status and pay the renewal fee then due.

(4) (2) At least thirty days before the expiration of a license or certificate, as set forth in subsection (1) of this section, the department shall notify each licensee or certificate holder by a letter addressed to him or her at his or her last place of residence as noted upon its records. Any licensee or certificate holder who fails to notify the department of his or her desire to let his or her license or certificate lapse or be placed on inactive status upon its expiration or who fails to pay the renewal fee on or before the date of expiration of his or her license or certificate shall be given a second notice in the same manner as the first notice advising him or her (a) of the failure to pay, (b) that the license or certificate on that account has expired, (c) that the department will suspend action for thirty days following the date of expiration, (d) that upon the receipt of the renewal fee, together with an additional fee of ten twenty-five dollars, within that time, no order of revocation will be entered, and (e) that upon the failure to receive the amount then due and ten twenty-five dollars in addition to the regular renewal fee, as provided by subsection (1) of this section, an order of revocation will be entered the license or certificate will be revoked in the manner prescribed in section 71-149.

(5) (3) Any licensee or certificate holder who allows a fails to renew his or her license or certificate to lapse by failing to renew the same, as

provided in subsections (1) and (2) of this section, may be reinstated upon the recommendation of the board of examiners for his or her profession and the payment of the regular and additional renewal fees then due for the intervening time period between revocation and reinstatement if an application for reinstatement is made within one year of revocation.

(6) Any licensee or certificate holder who applies for reinstatement more than one year after revocation shall petition the board of examiners to recommend reinstatement as prescribed in section 71-161.05.

Sec. 8. That section 71-112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-112. The boards of examiners provided in section 71-111 shall be designated as follows: For medicine and surgery and osteopathy, Examiners in Medicine and Surgery; for athletic training, Examiners in Athletic Training; for respiratory care, Examiners in Respiratory Care Practice; for chiropractic, Examiners in Chiropractic; for dentistry and dental hygiene, Examiners in Dentistry; for optometry, Examiners in Optometry; for massage therapy, Examiners in Massage Therapy; for physical therapy, Examiners in Physical Therapy; for pharmacy, Examiners in Pharmacy; for audiology and speech-language pathology, Examiners in Audiology and Speech-Language Pathology; for social work, Examiners in Social Work; for professional counseling, Examiners in Professional Counseling; for embalming and funeral directing, Examiners in Embalming and Funeral Directing; for podiatry, Examiners in Podiatry; for psychology, Examiners of Psychologists; and for veterinary medicine and surgery, Examiners in Veterinary Medicine.

Sec. 9. That section 71-113, Revised Statutes Supplement, 1987, be amended to read as follows:

71-113. (1) Each board of examiners shall consist of four members, including one layperson, except that (a) in audiology and speech-language pathology the board shall consist of five members, including one layperson, (b) in dentistry the board shall consist of eight members, including one layperson, (c) in medicine and surgery the board shall consist of seven members, including one layperson, (d) in pharmacy the board shall consist of five members, including one lay member, and (e) in psychology the board shall consist of six members, including one layperson.

(2) Membership on the Board of Examiners in

Audiology and Speech-Language Pathology shall consist of two members who are audiologists, two members who are speech-language pathologists, and one layperson.

(3) Membership on the Board of Examiners in Social Work shall consist of two certified master social workers, one certified social worker, and one layperson. One of the professional examiners shall also be a member of a racial or cultural minority.

(4) Membership on the Board of Examiners in Athletic Training shall consist of three athletic trainers and one layperson.

(5) Membership on the Board of Examiners in Professional Counseling shall consist of ~~two~~ three certified professional counselors, ~~one~~ registered ~~counselor~~, and one layperson.

(6) Membership on the Board of Examiners in Respiratory Care Practice shall consist of two respiratory care practitioners, one physician, and one layperson.

(7) Two of the six professional members of the Board of Examiners in Medicine and Surgery shall be officials or members of the instructional staff of an accredited medical school in this state.

(8) Two of the seven professional members of the Board of Examiners in Dentistry shall be officials or members of the instructional staff of an accredited school or college of dentistry in this state.

Sec. 10. That section 71-114, Revised Statutes Supplement, 1987, be amended to read as follows:

71-114. (1) Except as provided in subsections (4) and (6) of this section, every professional member of a board of examiners shall be and have been actively engaged in the practice of his or her profession in the State of Nebraska, under a license or certificate issued in this state, for a period of five years just preceding his or her appointment, except for the members of boards of examiners for professions coming within the scope of the Uniform Licensing Law for the first time and for a period of five years thereafter. Members appointed during such period shall be required to meet the minimum qualifications for licensure in the profession in this state and shall, insofar as possible, meet the requirements as to years of practice in this state otherwise provided by this section.

(2) A lay member of a board of examiners shall be of the age of legal majority and shall have been a resident of the State of Nebraska for at least five years immediately prior to appointment to the board.

Such a lay member shall never serve in a capacity to judge professional competence and shall be a representative of consumer viewpoints.

(3) Each member of the Board of Examiners in Audiology and Speech-Language Pathology shall have been a resident of the State of Nebraska for at least one year immediately prior to appointment and shall also have been engaged in rendering services to the public in audiology or speech-language pathology for at least three years immediately prior to appointment.

(4) The requirement of five years of experience shall apply to members of the Board of Examiners of Psychologists, except that up to two of the five years may have been served in teaching or research.

(5) All professional members of boards of examiners appointed to an initial board shall be licensed within six months after being appointed to the board or within six months after the date by which members of the profession must are required to be licensed, whichever is later. If for any reason a professional member is not licensed within such time period, a new professional member shall be appointed.

(6) Each professional member of a board of examiners first appointed to the Boards of Examiners in Social Work, Athletic Training, Professional Counseling, and Respiratory Care Practice, respectively, shall be a person who is and has been actively engaged in the practice of social work, athletic training, professional counseling, or respiratory care, respectively, for at least two years immediately preceding his or her appointment to the board and shall be licensed, certified, or registered, as appropriate, within six months after being appointed or within six months after members of the profession must are required to be licensed, certified, or registered, whichever is later. If for any reason a professional member cannot be licensed, certified, or registered, as appropriate, within such time period, a new professional member shall be appointed.

Sec. 11. That section 71-116, Revised Statutes Supplement, 1987, be amended to read as follows:

71-116. (1) The members of each board of examiners shall be residents of the State of Nebraska and shall be appointed for a term of five years. No member shall be appointed for or serve for more than two consecutive full five-year terms.

(2) The members of the Board of Examiners in Dentistry shall be appointed as follows: As of December

1, 1971, one member shall be appointed for a term of five years and one member shall be appointed for a term of three years; as of December 1, 1972, one member shall be appointed for a term of three years; as of December 1, 1973, one member shall be appointed for a term of three years; as of December 1 of each year thereafter, two members shall be appointed for a term of five years; as of December 1, 1979, one member who is a duly licensed dental hygienist and complies with section 71-114 shall be appointed for a term of five years; and as of December 1, 1984, one lay member shall be appointed for a term of five years. The dental hygienist member shall have full voting rights, except in matters pertaining to the initial or continuing licensure or competency of a duly licensed practitioner of dentistry. Thereafter successors with like qualifications shall be appointed for five-year terms.

(3) The members of the Board of Examiners in Medicine and Surgery shall be appointed as follows: Within thirty days after May 25, 1943, five members shall be appointed, one of whom shall hold office until December 1, 1944, one until December 1, 1945, one until December 1, 1946, one until December 1, 1947, and one until December 1, 1948; upon the expiration of such terms, successors shall be appointed for terms of five years each. Within thirty days after October 19, 1963, a sixth member, who shall be a person eligible for appointment to the Board of Examiners in Osteopathy who also has a license to practice medicine and surgery in the State of Nebraska, shall be appointed for a term expiring on December 1, 1968. As of December 1, 1984, one lay member shall be appointed for a term of five years. Thereafter successors with like qualifications shall be appointed for five-year terms. Upon the expiration of the five-year term of such sixth member of the board after April 19, 1986, his or her eligible successor shall be a person who has a license to practice osteopathic medicine or osteopathic medicine and surgery in the State of Nebraska.

(4) The members of the Board of Examiners in Audiology and Speech-Language Pathology shall be appointed as follows: Within sixty days after July 22, 1978, four members shall be appointed, two of whom shall hold office until December 1, 1979, and two until December 1, 1980. As of December 1, 1984, one lay member shall be appointed for a term of five years. Upon the expiration of such terms the successors shall be appointed for terms of five years each.

(5) The Board of Examiners in Pharmacy shall

be composed of five members, including four actively practicing pharmacists, one of whom practices within the confines of a hospital, and a lay member who is interested in the health of the people of Nebraska. The members of the Board of Examiners in Pharmacy shall be appointed as follows: As of December 1, 1983, the hospital pharmacist member shall be appointed for a term of five years and the lay member shall be appointed for a term of three years. Upon the expiration of such terms and the terms of existing members, the successors shall be appointed for terms of five years each.

(6) The members of the Board of Examiners of Psychologists appointed as successors to the members serving on February 25, 1984, shall be appointed for terms of five years. The terms of members serving on February 25, 1984, are hereby extended to December 1 of the year in which they would otherwise expire.

(7) The three members serving on the Board of Examiners in Massage on August 1, 1988, shall be appointed as members of the Board of Examiners in Massage Therapy. Successors shall be massage therapists and shall be appointed for terms of five years each. One lay member shall be appointed on December 1, 1988, for a term of five years. Upon the expiration of the lay member's term, each subsequent lay member shall be appointed for a five-year term.

(8) ~~(7)~~ The term of each member provided for in this section shall commence on the first day of December following the expiration of the term of the member whom such person succeeds and shall be rotated in such a manner that no more than one examiner shall retire during any year in which a term expires unless the number of members on a board makes it impractical to do so.

(9) ~~(8)~~ Except as otherwise specifically provided, the members of boards for professions coming under the scope of the Uniform Licensing Law for the first time shall be appointed within thirty days after the effective or operative date, whichever is later, of the act providing for licensing or certification of the profession, the terms of the initial board members to be as follows: One member shall hold office until December 1 of the third year, one until December 1 of the fourth year, and two, including the lay member, until December 1 of the fifth year following the year in which the act providing for licensing or certification of the profession became effective.

Sec. 12. That section 71-121, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

71-121. The department shall, as far as practicable, provide for the conducting of the business of several boards of examiners by mail and may hold meetings by teleconference subject to Chapter 84, article 14. Any official action or vote of the members of a board of examiners taken by mail shall be preserved in the records of the department and shall be embodied in the proper minute book by the Director of the Bureau of Examining Boards. At least a majority of each board of examiners shall be present at any examination given in that profession, except for examinations in audiology and speech-language pathology. The board members who are audiologists shall be present at any examination in audiology; and the board members who are speech-language pathologists shall be present at any examination in speech-language pathology.

Sec. 13. That section 71-131, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-131. (1) In the absence of any specific requirement or provision relating to any particular profession:

(a) The department may adopt and promulgate rules and regulations pertaining to the grading of examination papers;

(b) An examinee must determine the passing grade on examinations upon recommendation of the appropriate board of examiners. In the absence of such rules and regulations, an examinee shall be required to obtain an average grade of seventy-five percent;

(c) An examinee must and shall be required to obtain a grade of sixty percent in on each subject in which examined; and

(d) An examinee who fails to comply with subdivisions (b) and (c) subdivision (a) of this subsection may take the entire examination over without charge at any time within fourteen months, except that in the case in which a national standardized examination is utilized by any examining board, which requires the payment of a fee to purchase such examination, the department shall require the applicant to pay the appropriate examination fee.

(2) In pharmacy all applicants shall be required to attain a grade to be determined by the Board of Examiners in Pharmacy in an examination in pharmacy and a grade of seventy-five percent in an examination in jurisprudence of pharmacy. When an applicant falls below the designated grade in one of the two

examinations, the applicant may take that examination over without charge at any time within fourteen months at any regular session of such board held for the purpose of giving examinations or at the first regular session of the board held for the purpose of giving examinations thereafter if not held within that time. If an applicant falls below the designated grade in both the examination in pharmacy and the examination in jurisprudence of pharmacy, the applicant shall take both examinations over and the applicant may do this without charge at any time within fourteen months at any regular session of the board held for the purpose of giving examinations or at the first regular session of the board held for the purpose of giving examinations thereafter if not held within that time. Notwithstanding any provision of this section, whenever the Board of Examiners in Pharmacy utilizes a national standardized examination, which requires the payment of a fee to purchase such examination, the department shall require the applicant to pay the appropriate examination fee.

(3) In social work the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Social Work by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all the requirements for certification without examination pursuant to section 71-1,260 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(4) In professional counseling the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Professional Counseling by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination pursuant to section 71-1,271 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(5) In medicine and surgery the passing grade shall be determined by the department upon recommendation of the Board of Examiners in Medicine and Surgery. Applicants applicants taking the examination for the first time for licensure in this state in medicine and surgery, osteopathic medicine, or osteopathic medicine and surgery shall take the entire examination in one administration period. When an applicant falls below the designated grade or grades for the entire examination, the applicant may take the

entire examination over at any regular session of the board held for the purpose of giving examinations. Applicants who fall below the designated grade in a separate component of the examination may retake only that component at any regular session of the board held for the purpose of giving component examinations. No applicant may retake any separate component of or the entire examination for licensure more than three times without first providing documentation of successful completion of one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathy. No more than seven years shall lapse between initial examination of an applicant and successful completion by an applicant of all components of the examination for licensure in medicine and surgery, osteopathic medicine, or osteopathic medicine and surgery. A passing grade or score for a component shall become invalid at the end of a period of seven years. Fees for examination shall be determined by the department upon the recommendation of the Board of Examiners in Medicine and Surgery in amounts necessary to cover the actual cost of the examination and expenses of administration. Separate fees shall be established in the same manner for reexamination for the entire examination and for reexamination for any separate component of the examination.

(6) In psychology the passing grade shall be determined by the department upon recommendation of the Board of Examiners of Psychologists. Fees fees for reexamination shall be the same as the fee for the initial examination.

(7) In chiropractic the passing grade shall be determined by the department upon recommendation of the Board of Examiners in Chiropractic. Fees fees for reexamination shall be the same as the fee for the initial examination.

(8) In dentistry the passing grade shall be determined by the department upon the recommendation of the Board of Examiners in Dentistry.

(9) In athletic training the passing grade shall be determined by the department upon the recommendation of the Board of Examiners in Athletic Training. Fees fees for reexamination shall be the same as the fee for the initial examination. If an applicant fails the first examination, the applicant shall, after the expiration of six months and within two years from the first failure, be allowed to take a second examination upon payment of the examination fee. Applicants failing the second examination may take the

examination a third time if the applicant qualifies under the rules and regulations of the department in effect at the time of his or her application for reexamination.

(9) (10) In respiratory care the passing grade shall be determined by the department on the recommendation of the Board of Examiners in Respiratory Care Practice. Fees fees for reexamination shall be the same as the fee for the initial examination.

Sec. 14. That section 71-133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-133. (1) Except in dentistry, the oral or practical work portion of any examination regulated under the Uniform Licensing Law shall be given by a majority of the members of the board giving such examination. The oral examination questions shall be limited to the practice of the profession. The members of the board need not be present at the examination given to applicants when a national standardized examination or any other written examination is utilized. Such board may delegate the administration of such examination to the Department of Health department.

(2) In dentistry, the final practical examination in clinical dentistry may be given at the infirmary of each of the dental colleges, schools, or departments legally conducted in the State of Nebraska of which the applicant is a graduate. Regional practical examinations The Central Regional Dental Testing Service practical examination may be used to meet the requirement of a final practical examination in clinical dentistry and for dental hygienists upon the recommendation of the Board of Examiners in Dentistry and the subsequent approval of the department for dentists and for dental hygienists. Any person who applies for a license to practice dentistry or dental hygiene who has previously failed a state or regional clinical licensing examination two times on two occasions to pass any part of the examination shall be required to complete a practical course in clinical dentistry recommended approved by the Board of Examiners in Dentistry and approved by the Department of Health before the department shall consider the results of a third examination as valid qualification for a license to practice dentistry or dental hygiene in the State of Nebraska.

Sec. 15. That section 71-139.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-139.01. The Board of Examiners in Medicine and Surgery may approve without examination: (1) Any person who after examination has been duly licensed to practice medicine and surgery in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the board shall find to be comparable to the requirements of the State of Nebraska for obtaining a license to practice medicine and surgery; (2) any person who is a graduate of an accredited college or school of medicine and surgery located in the Canadian provinces and who has satisfactorily completed the Licentiate of the Medical Council of Canada examination and has been duly licensed to practice medicine and surgery in Canada under conditions and circumstances which the board shall find to be comparable to the requirements of the State of Nebraska for obtaining a license to practice medicine and surgery; or (3) any person who is a foreign medical graduate and who has not graduated from an accredited school or college of medicine of the United States or Canada but who has satisfactorily completed the Licentiate of the Medical Council of Canada examination and who possesses a certificate issued by the Educational Commission on Foreign Medical Graduates, or its equivalent as provided for in section 71-1,104, and has been duly licensed to practice in Canada under conditions and circumstances which the board shall find to be comparable to the requirements of the State of Nebraska for obtaining a license to practice medicine and surgery. The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training and is possessed of good character and morals as required by the laws of the State of Nebraska. The applicant shall also produce evidence satisfactory to the board that he or she has been in the active practice of the profession of medicine and surgery in some other state, territory, the District of Columbia, or Canada for a period of one year, or has had one year or more of residency or graduate training in an accredited hospital within the three years immediately preceding the application for licensure, and shall submit a certificate of the proper licensing authority of the state, territory, the District of Columbia, or Canada where he or she is licensed to practice such profession, that the applicant is duly licensed, that his or her license has not been suspended or revoked, and that so far as the records of such authority are concerned, the applicant is entitled to its endorsement. If the

applicant is found by the board to meet the requirements provided in this section and to be qualified to be licensed to practice the profession of medicine and surgery in the State of Nebraska, the board shall certify such fact to the Department of Health department and the department upon receipt of such certification shall issue a license to practice medicine and surgery in the State of Nebraska to such applicant.

Sec. 16. That section 71-147, Revised Statutes Supplement, 1987, be amended to read as follows:

71-147. A license or certificate to practice a profession may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 71-155 when the applicant, licensee, or certificate holder is guilty of any of the following acts or offenses: (1) Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license or certificate; (2) grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state; (3) habitual intoxication or dependency on or addiction to the use of alcohol or habituation or dependency on or addiction to the use of any kind of controlled substance or narcotic drug; (4) conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, licensee's, or certificate holder's fitness or capacity to practice the profession; (5) practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, or (d) with gross incompetence or gross negligence; (6) practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability; (7) physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means; (8) permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license or certificate by a person not licensed or certified to do so; (9) ~~the denial, refusal of renewal, limitation, suspension, or revocation of a license or the taking of other disciplinary measures in accordance with section 71-155 against such individual~~

having had his or her license or certificate denied, refused renewal, limited, suspended, or revoked or having had such license or certificate disciplined in any other manner in accordance with section 71-155 by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant, licensee, or certificate holder similar to acts described in this section. A 7 a certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license or certificate or the taking of other disciplinary measures against it of the by another state or jurisdiction taking such action being shall be conclusive evidence; ~~thereof~~; (10) unprofessional conduct, which term includes all acts specified in section 71-148 and such other acts as may be defined in rules and regulations adopted and promulgated by the board of examiners in the profession of the applicant, licensee, or certificate holder with the approval of the department; (11) use of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims, concerning such licensee's or certificate holder's professional excellence or abilities, in advertisements; (12) conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act; (13) distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes; (14) willful or repeated violations of the Uniform Licensing Law or the rules and regulations of the department relating to the licensee's or certificate holder's profession, sanitation, quarantine, or school inspection; (15) unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee or certificate holder is not licensed or certified to practice; (16) failure to comply with sections 71-604, and 71-605, and 71-606 relating to the signing of birth and death certificates; or (17) acts or offenses for which disciplinary measures may be taken against a registration for controlled substances under sections 28-401 to 28-445. A license or certificate to practice a profession may also be refused renewal or revoked when the licensee or certificate holder is guilty of practicing such profession while his or her license or certificate to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his or her license or certificate.

This section shall not apply to revocation for nonpayment of renewal fees as set out in section 71-110.

Sec. 17. That section 71-148, Revised Statutes Supplement, 1987, be amended to read as follows:

71-148. For the purpose of section 71-147, unprofessional conduct shall include any of the following acts: (1) Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the licensee or certificate holder; (2) receipt of fees on the assurance that a manifestly incurable disease can be permanently cured; (3) division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a patient; (4) obtaining any fee for professional services by fraud, deceit, or misrepresentation including, but not limited to, falsification of third-party claim documents; (5) cheating on or attempting to subvert the licensing or certification examination; (6) assisting in the care or treatment of a patient without the consent of such patient or his or her legal representative; (7) the use of any letters, words, or term or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that such person is entitled to practice a system or mode of healing for which he or she is not licensed or certified; (8) performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion; (9) willful betrayal of a professional secret; (10) making use of any advertising statements of a character tending to deceive or mislead the public; (11) advertising professional superiority or the performance of professional services in a superior manner; (12) advertising to guarantee any professional service or to perform any operations, painlessly; (13) the performance by a physician of an abortion, as defined in subdivision (1) of section 28-326, under circumstances when he or she will not be available for a period of at least forty-eight hours for postoperative care unless such postoperative care is delegated to and accepted by another physician; (14) performing an abortion upon a minor without having satisfied the notice requirements of section 28-347; and (15) ~~failure of a professional counselor to abide by section 71-17, 272~~ the providing by a massage therapist of sexual stimulation as part of massage therapy.

Sec. 18. That section 71-149, Revised Statutes Supplement, 1987, be amended to read as follows:

71-149. (1) When any licensee or certificate holder fails, within thirty days of expiration of a license or certificate, to meet the renewal requirement of payment of the renewal fee, the department shall automatically revoke such license or certificate without further notice or hearing and shall make proper record of the revocation.

(2) When any licensee or certificate holder fails, within thirty days of expiration of a license or certificate, to meet the continuing education requirement for renewal, if such is required, the department shall revoke such license or certificate after notice and opportunity for hearing.

(3) Subsections (1) and (2) of this section shall not apply when the licensee or certificate holder has given notification to the department that he or she desires to have such license or certificate lapse or be placed on inactive status upon expiration. The Director of Health shall have jurisdiction of proceedings to deny the application of an applicant or refuse renewal of, limit, revoke, suspend, or, in accordance with section 71-155, take other disciplinary measures against the license of any licensee or certificate of any certificate holder practicing under the Uniform Licensing Law. When any licensee or certificate holder fails to pay renewal fees, as provided in section 71-110, within thirty days after they become due as provided in such section, the license or certificate of such person shall be automatically revoked at the expiration of thirty days after the same became due, without further notice or hearing, and the director shall make proper record of such revocation. For any other cause than the nonpayment of renewal fees, a petition for the refusal of renewal, limitation, revocation, or suspension of or, in accordance with section 71-155, the taking of other disciplinary measures against a license or certificate shall be filed: (1) By the Attorney General in all cases; (2) by the county attorney of the county in which the licensee resides or has practiced; or (3) in medicine and surgery, by the Commission on Medical Qualifications or any similar commission with reference to other professions as defined in section 71-102. The petition shall be filed in the office of the Director of the Bureau of Examining Boards of the department or with some other person designated by its director.

Sec. 19. That section 71-150, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-150. The Director of Health shall have jurisdiction of proceedings: (1) To deny the issuance of a license or certificate; (2) to refuse renewal of a license or certificate; and (3) to discipline a licensee or certificate holder.

To deny issuance of a license or certificate, the Director of Health shall notify the applicant in writing of the denial and the basis therefor. To refuse renewal of a license or certificate, the Director of Health shall notify the applicant in writing of the renewal refusal, subsequent revocation, and basis therefor. In order for the Director of Health to discipline a license or certificate, a petition shall be filed: (a) By the Attorney General in all cases; (b) by the county attorney of the county in which the licensee or certificate holder resides or has practiced; or (c) in medicine and surgery by the Commission on Medical Qualifications or any similar commission with reference to other professions set out in section 71-102. The petition shall be filed in the office of the Director of the Bureau of Examining Boards. The Director of Health may also direct the Attorney General to file such petition against a licensee or certificate holder upon motion of the Director of Health or upon the sworn statement of some person who resides in the county in which the licensee or certificate holder practices. The Department of Health shall direct the Attorney General to file such petition against such licensee or certificate holder upon its own motion, or it may give such directions upon the sworn statement of some person who resides in the county wherein the licensee or certificate holder practices.

Sec. 20. That section 71-155, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-155. The proceeding shall be summary in its nature and triable as an equity action. Affidavits may be received in evidence in the discretion of the Director of Health. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing held hereunder, the director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers, irrespective of the petition:

- (1) Issue a censure or reprimand against the licensee or certificate holder;
- (2) Suspend judgment;
- (3) Place the licensee or certificate holder on probation;
- (4) Place a limitation or limitations on the license or certificate and upon the right of the licensee or certificate holder to practice the profession to such extent, scope, or type of practice, for such time, and under such conditions as ~~is~~ are found necessary and proper. The director shall consult with the appropriate board of examiners in all instances prior to issuing an order of limitation;
- (5) Impose a civil penalty not to exceed ten thousand dollars. The amount of the penalty shall be based on the severity of the violation; plus costs;
- (6) Enter an order of suspension of the license ~~of the licensee or certificate; of the certificate holder;~~
- (7) Enter an order of revocation of the license ~~of the licensee or certificate; of the certificate holder;~~ and
- (8) Dismiss the action.

The licensee or certificate holder shall not engage in the practice of ~~any~~ a profession after a license or certificate to practice ~~the same~~ such ~~profession~~ is revoked or during the time for which it is suspended. If a license or certificate is suspended, the suspension shall be for a definite period of time to be fixed by the director, and such license or certificate shall be automatically reinstated upon the expiration of such period if ~~all renewal fees have the~~ current renewal fee has been paid. If such license or certificate is revoked, such revocation shall be for all times, except that at any time after the expiration of two years, application may be made for reinstatement pursuant to section 71-161.04 of any licensee or certificate holder whose license or certificate shall have been revoked. Such application shall be addressed to the director, but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the board of examiners in the profession of the petitioner. The amount of the civil penalty, if any, shall be based on the severity of the violation, and if any violation is a repeated or continuing violation, each violation or each day a violation continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any. The department may adopt and

promulgate such rules and regulations concerning notice and hearing of such application as are deemed necessary. Sec. 21. That section 71-161.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.01. A plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge shall be deemed to be a conviction within the meaning of sections 28-409, 71-147, 71-3,174, 71-3,175, and ~~71-1333~~; 71-2045.02, ~~71-2717~~, and ~~71-4712~~. The term conviction within the meaning of such sections shall mean a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof and shall include instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation. Pursuant to such sections, a license, permit, certificate, or registration, including one of a temporary nature, may be denied, refused renewal, limited, suspended, or revoked or have other disciplinary measures taken against it in accordance with section 71-155; when the time for appeal of the conviction has elapsed or the conviction has been affirmed on appeal or an order granting probation is made suspending the imposition or the execution of sentence, irrespective of any subsequent order under any statute allowing such person to withdraw his or her plea of guilty, nolo contendere, or non vult contendere and to enter a plea of not guilty, or setting aside the verdict of guilty or the conviction, or releasing the person from probation, or dismissing the accusation, information, or indictment.

Sec. 22. That section 71-161.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.03. Any petition filed with the Director of Health of the Bureau of Examining Boards pursuant to the provisions of sections ~~71-149 to 71-156~~ section 71-150 may, at any time prior to the entry of any order by the ~~director~~ Director of Health, be disposed of by stipulation, agreed settlement, consent order, or similar method as agreed to between the parties. If the same is acceptable to the ~~director~~ Director of Health, he or she shall make it the sole basis of any order he or she enters in the matter, and it may be modified or added to by the director only upon the mutual consent of both of the parties thereto.

Sec. 23. That section 71-161.04, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.04. (1) A person licensed or certified by the department, whose license or certificate has been suspended or has had limitations placed thereon pursuant to Chapter 71, article 1, for any reason specified in sections 71-147 and 71-148 may petition the board of examiners in the profession of the petitioner to recommend the reinstatement of the license or certificate at any time.

(2) A person licensed or certified by the department whose license or certificate has been revoked pursuant to Chapter 71, article 1, for any reason specified in such sections may petition the board of examiners to recommend reinstatement after a period of not less than two years has elapsed from the date of revocation. A person whose license has been revoked pursuant to section 71-110 and who has not requested reinstatement within one year may petition the board of examiners to recommend reinstatement at any time.

Sec. 24. That section 71-161.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.05. The petition Any petition for reinstatement due to nonpayment of renewal fees, noncompliance with continuing education requirements, or disciplinary action shall state such pertinent facts as may be required by the board by rule and regulation, with the approval of the department. The petition shall be accompanied by at least two verified recommendations from licensed or certified practitioners of the profession of same profession as the petitioner licensed or certified in the State of Nebraska and by at least two recommendations from citizens. Recommendations shall be from persons having personal knowledge of the activities of the petitioner since the license or certificate was revoked or since disciplinary action was imposed, each having personal knowledge of the activities of the petitioner since the disciplinary measure was imposed.

Sec. 25. That section 71-161.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-161.07. In determining whether the disciplinary measure should be set aside and the terms and conditions which should be imposed if the disciplinary measure is set aside, the board (1) may investigate and consider all activities of the petitioner since the disciplinary action was taken

against him or her, including activities prohibited by section 71-147, the act or offense for which he or she was disciplined, his or her activity during the time his or her license or certificate was in good standing, and his or her general reputation for truth, professional ability, and good character; (2) Each board of examiners shall participate in disciplinary proceedings for its own profession by making a recommendation to the Director of Health regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the board (1) may request the department to investigate the petitioner to determine if the petitioner has committed acts or offenses prohibited by sections 71-147 and 71-148, (2) may require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the board, the petitioner being free also to consult a physician or physicians of his or her own choice for a complete diagnostic examination and making to make available a report or reports thereof to the board, and (3) may require the petitioner to pass an oral a written, oral, or practical examination, or both any combination of such examinations. The affirmative vote of a majority of the members of the board shall be necessary to recommend the setting aside of a disciplinary measure and the reinstatement of a license or certificate with or without terms, conditions, or restrictions. The board may grant or deny, without a hearing or argument, any petition to recommend reinstatement filed pursuant to this section, when the petitioner has been afforded a hearing or an opportunity for a hearing upon any petition filed pursuant to this section within a period of two years immediately preceding the filing of such petition. Denial by the board of the petition for recommendation of reinstatement of the license or certificate shall be subject to review pursuant to the provisions of the Administrative Procedure Act.

Sec. 26. That section 71-162, Revised Statutes Supplement, 1987, be amended to read as follows:

71-162. (1) The following fees shall be collected by the department and turned in to the state treasury as is now provided by law:

(a) Not less than fifty dollars nor more than three hundred dollars for a license issued on the basis of an examination given by the appropriate state or national board of examiners or on the basis of a license granted by another state or territory to practice dental

hygiene, athletic training, respiratory care, embalming, physical therapy, dentistry, podiatry, optometry, pharmacy, chiropractic, audiology, speech-language pathology, massage therapy, or funeral directing and for a license to practice psychology issued on the basis of such an examination or foreign license, one hundred dollars plus actual costs incurred in issuing the license, as determined by the department, except that the total fee shall not exceed four hundred dollars;

(b) Not less than twenty dollars nor more than four hundred dollars for the biennial renewal of a license to practice medicine and surgery, osteopathy, or any of the professions enumerated in subdivision (a) of this subsection;

(c) For a license to practice medicine and surgery and osteopathy issued upon the basis of an examination given by the board of examiners, three hundred dollars, and this may be adjusted by the department upon recommendation of the Board of Examiners in Medicine and Surgery to cover necessary expenses;

(d) For a license to practice medicine and surgery and osteopathy issued without examination based on a license granted in another state, territory, or the District of Columbia, two hundred dollars, and this may be adjusted by the department upon recommendation of the Board of Examiners in Medicine and Surgery to cover necessary expenses;

(e) For a certificate as a certified professional counselor, not to exceed two hundred fifty dollars nor less than one hundred twenty-five dollars. ~~The fee for a certificate as a registered counselor shall not exceed one hundred dollars nor be less than twenty-five dollars.~~ The fee for renewal of a certificate as a certified professional counselor shall not exceed one hundred seventy-five dollars nor be less than one hundred dollars. ~~The fee for renewal of a certificate as a registered counselor shall not exceed seventy-five dollars nor be less than twenty dollars.~~ The fee for certification by reciprocity shall not exceed two hundred fifty dollars nor be less than one hundred twenty-five dollars;

(f) For a certificate as a certified master social worker, not to exceed two hundred twenty-five dollars nor less than one hundred dollars. The fee for a certificate as a certified social worker shall not exceed one hundred seventy-five dollars nor be less than one hundred dollars. The fee for renewal of a certificate as a certified master social worker shall not exceed one hundred seventy-five dollars nor be less

than one hundred dollars. The fee for renewal of a certificate as a certified social worker shall not exceed one hundred fifty dollars nor be less than seventy-five dollars. The fee for certification by reciprocity shall not exceed two hundred dollars nor be less than one hundred dollars;

(g)(i) For a license to operate a massage therapy school, not less than one hundred dollars nor more than three hundred dollars, and for renewal of a license, not less than one hundred dollars nor more than three hundred dollars; and (ii) for a license to operate a massage therapy establishment, not less than one hundred dollars nor more than three hundred dollars, and for renewal of a license, not less than one hundred dollars nor more than four hundred dollars;

(h) For a certified statement that a licensee or certificate holder is licensed or certified in this state, five dollars, and for verification that a licensee or certificate holder is licensed or certified in this state, two dollars; and

(h) (i) For a duplicate original license or certificate, five dollars, except that for a duplicate license to practice psychology the fee shall be ten dollars.

All money paid as license, certificate, and renewal fees shall be kept in a separate fund to be used for the benefit of the profession so paying such fees.

(2) The department, upon the recommendation of the appropriate examining board, shall determine the exact fee to be charged for a license or license renewal or certificate or certificate renewal in each profession enumerated in subdivisions (1)(a), (b), (e), and (f), and (g) of this section based on the administrative costs incurred by the board. Such board may provide differing rates for licenses issued on the basis of an examination and licenses issued on the basis of a license from another state or territory.

Sec. 27. That section 71-163, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-163. Any applicant for a license or certificate who withdraws his or her application or whose application is rejected by the department shall be allowed the return of his or her fee, except for an administrative charge set by the department of at least ten fee of twenty-five dollars to be retained by the department, unless the fee remitted is less than twenty-five dollars in which case such fee shall be forfeited.

Sec. 28. That section 71-175, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-175. Every applicant for a license to practice podiatry shall (1) present proof of the completion of a four-year course in an accredited high school, or an equivalent thereto as the term equivalent has been heretofore defined in the Uniform Licensing Law; (2) present proof of graduation from a school of chiropody or podiatry approved by the Department of Health department on recommendation of the board of examiners; (3) and (2) pass an a written examination prescribed by the board in the subjects of anatomy, physiology, pathology, bacteriology, chemistry, podiatry, diagnosis and treatment, therapeutics, materia medica, clinical podiatry, asepsis, and surgery, but such subjects shall be limited in their scope to the treatment of the foot. Upon ; and (4) the Department of Health shall accept; upon the recommendation of the Board of Examiners in Podiatry and in lieu of the written examination, the department shall accept herein provided; a certificate of examination issued by the National Board of Podiatry Examiners. Every applicant for a license upon the basis of such certificate shall be required to pay the fee prescribed in section 71-162 for licenses issued in podiatry based upon an examination held by the National Board of Podiatry Examiners.

Sec. 29. That section 71-179, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-179. Every applicant for a license to practice chiropractic shall (1) present proof of graduation from an accredited college of chiropractic and (2) pass an examination which consists of the following components: (a) Parts I and II of the examination given by the National Board of Chiropractic Examiners; (b) the written Clinical Competency Test given by the National Board of Chiropractic Examiners; and (c) the practical examination given by the Board of Examiners in Chiropractic. satisfactory evidence that he has completed a four-year course in an accredited high school; (2) present proof of graduation from an accredited college of chiropractic; and (3) pass an examination prescribed by the Board of Examiners in Chiropractic in the subjects of anatomy; adjusting; bacteriology; chemistry; chiropractic physiotherapy; hygiene; pathology; roentgenology; orthopedics; physiology; symptomatology; palpation; principles and

practice of chiropractic; PROVIDED, that the Board of Examiners in Chiropractic may waive the written examination for an applicant who holds a National Board of Chiropractic Examiners Certificate who meets the requirements of this section and who satisfactorily passes all oral and practical examinations of the Board of Examiners in Chiropractic.

Sec. 30. That section 71-185, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-185. Every applicant for a license to practice dentistry shall (1) furnish proof of having completed a four-year course in an accredited high school, or its equivalent as that term is herein defined; (2) present proof of graduation from an accredited school or college of dentistry; and (3) (2) pass an examination prescribed by the Board of Examiners in Dentistry, which shall be elementary and practical in character but sufficiently thorough to test the fitness of the candidate to practice dentistry. Such examination shall include questions on anatomy, physiology, chemistry, dental materials, materia medica, therapeutics, histology, pathology, oral surgery, operative and prosthetic dentistry, dental jurisprudence, and such other subjects as are usually found in the curriculum of a dental college. Demonstrations of the applicant's skill in clinical dentistry shall also be required. The passing grade shall be determined by the department upon the recommendation of the Board of Examiners in Dentistry.

The Department of Health department shall accept, upon the recommendation of the Board of Examiners in Dentistry and in lieu of the examination, herein provided, a certificate of examination issued by the National Board of Dental Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fee prescribed in section 71-162 for licenses issued in dentistry without examination based upon a certificate by examination held by the National Board of Dental Examiners of the United States of America.

Commencing in 1985, standards for relicensure for each Nebraska-licensed dentist and dental hygienist in active practice within the State of Nebraska shall require that such dentist or dental hygienist biennially complete thirty hours of continuing education as prescribed in sections 71-161.09 and 71-161.10 by no later than March 1, 1987, and an additional thirty hours by no later than March 1 of each odd-numbered year

thereafter.

Sec. 31. The department upon recommendation of the Board of Examiners in Dentistry shall issue a temporary license to any person who (1) has met the requirements for a license as set forth in section 71-185 and who is enrolled in an accredited school or college of dentistry for the purpose of completing a postgraduate or residency program in dentistry and (2) is licensed in another jurisdiction under conditions which the board finds equivalent to the requirements of the State of Nebraska for obtaining a license to practice dentistry.

Any person who desires a temporary license shall make application to the department. Such application shall be accompanied by the required fee for licensure as specified in section 71-162.

The temporary license shall be issued for a period of one year and, upon application to the department, renewed annually without the licensee having to pay a renewal fee.

The temporary licensee shall be entitled to practice dentistry, including prescribing legend drugs and controlled substances, only under the auspices of the postgraduate or residency program in which he or she is enrolled.

Sec. 32. That section 71-193.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-193.04. Any person (1) of good moral character, (2) who has attained the age of eighteen years, and who is a graduate of an accredited high school or its equivalent; and (3) who is also a graduate of a training school for dental hygienists that is approved by the Board of Examiners in Dentistry and that requires a course of not less than two academic years may, upon payment of the fee prescribed in section 71-162, be examined by such board on the subjects considered essential by it for a dental hygienist. Upon passage of the examination, the board shall recommend to the department that a license to practice as a dental hygienist be issued. Such examination may, in the discretion of the board, be conducted by a part of the members of such board. If the applicant, in the opinion of the board, successfully passes such examination, he or she shall be entitled to be licensed as a dental hygienist if he or she has attained the age of eighteen years.

Sec. 33. That section 71-193.25, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

71-193.25. Violations of the Dental Anesthesia Act may result in action against the dentist's permit, license, or both pursuant to sections 71-155 to ~~71-161-08 and 71-161-11 to~~ 71-161.18.

Sec. 34. That section 71-193.31, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-193.31. Permits issued by the board pursuant to sections 71-193.26, 71-193.27, and 71-193.29 shall be valid for four years. The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations to define criteria for the reevaluation of credentials, facilities, equipment, dental auxiliary personnel, and procedures of a previously qualified dentist to renew his or her permit for each additional four-year period.

The department shall adopt and promulgate rules and regulations setting the fees for issuance of any of the permits specified in such sections at not less than fifty dollars nor more than two hundred dollars. A fee of not less than twenty-five dollars nor more than one hundred dollars shall be charged for renewal of any of such permits.

Sec. 35. That section 71-195, Revised Statutes Supplement, 1987, be amended to read as follows:

71-195. (1) An applicant for a license as an embalmer shall file with the department an application, upon a form prepared by the department, presenting satisfactory proof that the applicant ~~is of good moral character~~ and has earned the equivalent of sixty semester hours of college credit; which shall include the equivalent of in addition to a full course of instruction in a mortuary science college. These sixty semester hours shall include the equivalent of (a) six semester hours of English, (b) six semester hours of accounting, (c) eight semester hours of chemistry, (d) twelve semester hours of a biological science relating to the human body, and (e) six semester hours of psychology or counseling.

(2) The applicant for a license as an embalmer shall also present proof to the department that he or she has completed the following training in embalming:

(a) A full course of instruction in a mortuary science an embalming college of the type referred to in section 71-196 and approved by the board;

(b) Twelve months of service as a student embalmer under the instruction and supervision of a

regularly licensed embalmer practicing in the State of Nebraska; and

(c) Has embalmed arterially twenty-five bodies under the direction of such licensed embalmer. Supervision shall require direct oversight or the easy availability of the supervising embalmer.

(3) When the applicant has satisfied the department that he or she either has the qualifications mentioned in subdivision (2)(a) of this section or has completed all but the final semester of a full course of instruction in an embalming a mortuary science college of the type referred to in section 71-196 which is approved by the board, the applicant shall be eligible to take an examination prescribed by the board. The board may adopt a national standardized examination to constitute all or part of such examination. The applicant shall pass such examination before beginning his or her twelve-month or final six-month service as a student embalmer under the instruction and supervision of an embalmer licensed and practicing in Nebraska. When the applicant has satisfied the department that he or she has the qualifications mentioned in subsection (2) of this section and also the qualifications set out in the Uniform Licensing Law relating to applicants for examination in general, the applicant may present himself or herself before the board of examiners for a written jurisprudence and vital statistics examination and for examination upon such other subjects as may be recommended by the board and approved by the department. The passing score for the examinations required under this section shall be set by rules and regulations adopted and promulgated by the department upon recommendation of the board.

Sec. 36. That section 71-198, Revised Statutes Supplement, 1987, be amended to read as follows:

71-198. Before beginning his or her twelve-month or each six-month service as a student embalmer, an applicant shall register with the department on a form provided by the department for that purpose. The fee for registration with the department as a student embalmer shall be set by the department at not less than twenty dollars nor more than one hundred dollars based on administrative costs. The applicant shall have completed thirty-nine of the required sixty hours required in subsection (1) of section 71-195. The applicant may complete the twelve-month service as a student embalmer in the following manner:

(1) By registering with the department and

serving six months of his or her service as a student embalmer, then attending embalming mortuary science college as required in section 71-195, and after successfully completing the written examination of embalming required by such section, by completing the final six months of the required service as a student embalmer. Both six-month service periods as a student embalmer shall be under the instruction and supervision of an embalmer licensed and practicing in the State of Nebraska; or

(2) By completing embalming mortuary science college and successfully passing the written examination on the subject of embalming as required in section 71-195, then registering with the department as a student embalmer and serving twelve months of service as a student embalmer under the instruction and supervision of an embalmer licensed and practicing in the State of Nebraska.

The applicant shall present himself or herself to the board of examiners for a written examination in the subjects of jurisprudence, vital statistics forms completion, and such other subjects as may be recommended by the board and approved by the department and shall receive a grade of seventy-five or above on each examination; within thirty-six months of the date of registration as a student embalmer if the applicant elects to complete his or her twelve-month service as prescribed in subdivision (1) of this section and twenty-four months if the applicant elects to complete his or her twelve-month service as prescribed in subdivision (2) of this section.

The department may, on the recommendation of the board, adopt and promulgate rules and regulations to provide additional guidelines for student embalmers in embalming and to further regulate the registration and training of such students.

Sec. 37. That section 71-1,132.07, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,132.07. (1) There is hereby established a board, to be known as the Board of Nursing, which shall consist of seven registered nurse members, two practical nurse members, and one ~~nonvoting~~ consumer member, all of whom shall be appointed by the Governor. The present members of the board shall serve as members of the board until the expiration of their respective terms or until their successors have been appointed. The registered nurses on the board shall be from the following areas: (a) One practical nurse educator; (b)

one associate degree nurse educator; (c) one diploma nurse educator; (d) one baccalaureate nurse educator; (e) two nursing service administrators; and (f) one staff nurse. All congressional districts shall be equally represented by the voting members on the board, and each member shall have been a bona fide resident of the congressional district from which he or she is appointed for a period of at least one year prior to the time of the appointment of such member.

(2) The initial term of office for members of the board shall be as follows: (a) One registered nurse shall be appointed for one year; (b) one registered nurse shall be appointed for two years; (c) two registered nurses shall be appointed for four years; (d) one licensed practical nurse shall be appointed for two years; and (e) one licensed practical nurse shall be appointed for four years. On expiration of the terms of the initial board members, the term of all board members shall be four years.

(3) At the expiration of the term of any member, the Governor may consult with appropriate professional nursing organizations regarding candidates for appointment. Appointments shall be made on or before December 1 of each year. Vacancies occurring on the board shall be filled for the unexpired terms by appointments made by the Governor. No individual shall serve more than two consecutive terms on the board. The Governor may remove any member from the board as provided in Article IV, section 10, of the Constitution of the State of Nebraska.

(4) The department shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board and which establish procedures in the case such a conflict arises. Sec. 38. That section 71-1,132.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.08. (1) Each licensed practical nurse educator shall (a) be a registered nurse currently licensed in the state, (b) have graduated with a baccalaureate degree in nursing or a related field of study, (c) have had a minimum of three years' experience in administration, teaching, or consultation in practical nurse education, and shall (d) be currently employed as a practical nurse educator.

(2) Each associate degree nurse educator, diploma nurse educator, and baccalaureate nurse educator shall (a) be a registered nurse currently licensed in the state, (b) have graduated with a master's degree

in nursing or a related field of study, (c) ; have had a minimum of five years' experience in administration, teaching, or consultation in nursing education, ; and (d) be currently employed in the field being represented.

(3) Each staff nurse shall (a) be a registered nurse currently licensed in the state, (b) ; have had a minimum of five years' experience in nursing, ; and (c) be currently employed as a staff nurse.

(4) Each nursing service administrator shall (a) be a registered nurse currently licensed in the state, (b) ; have had a minimum of five years' experience in nursing service administration, ; and (c) be currently employed in such field.

(5) Each licensed practical nurse member shall (a) have completed at least four years of high school study, (b) ; be licensed as a licensed practical nurse in this state, (c) ; have obtained a certificate from a state-approved practical nursing program, (d) ; shall have been actively engaged in practical nursing for at least five years, ; and (e) be currently employed as a licensed practical nurse in the state.

(6) The ~~nonvoting~~ consumer advisor shall (a) not have been involved in providing health care services in this state for at least three years prior to his or her appointment, (b) ; shall be of voting age, and (c) ; and shall be a resident of the state.

Sec. 39. That section 71-1,132.20, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.20. (1) The license of every person, licensed under the provisions of sections 71-1,132-04 to 71-1,132-09 and 71-1,132-11 to 71-1,132-41, registered nurse or licensed practical nurse shall be renewed biennially. The biennial expiration date shall be as follows: (a) December 31 of every odd-numbered year, licensed practical nurses; and (b) December 31 of every even-numbered year, registered nurses. ; except as provided by the provisions of such sections. The biennial license renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the board, shall establish by rule and regulation.

(2) On or before October 1 of each renewal year, the department shall mail an application for renewal of license to every person to whom such a license was issued or renewed during the current renewal period. The applicant shall fill in the application blank and return it to the department with a renewal fee

established by the department pursuant to section 71-1,132.49 on or before December 1 following the mailing of such notice. Upon receipt of the application and fee, the department shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the renewal period beginning January 1 following the mailing of such notice. Such certificate of renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the certificate of renewal. Any licensee who fails to pay the renewal fee on or before January 1 shall have his or her license lapsed unless such person requests identification of inactive status and pays the fee as provided for in section 71-1,132.49. An inactive license

(3) A licensed practical nurse or registered nurse who wishes to have his or her license lapse upon expiration shall give the department written notice to that effect. The department shall notify the licensee in writing of the acceptance or denial of the request to allow the license to lapse. When the lapsed status becomes effective, the right to practice nursing and to represent himself or herself as a licensed practical nurse or registered nurse shall terminate. To restore the license, the individual shall be required to meet the renewal requirements in effect at the time he or she wishes to restore the license and pay the renewal fee and an additional fee of twenty-five dollars.

(4) A licensed practical nurse or registered nurse who wishes to have his or her license placed on inactive status upon expiration shall give the department written notice to that effect and pay the fee provided in section 71-1,132.49. The department shall notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on inactive status. When the license is placed on inactive status, the licensee shall not engage in the practice of nursing. A license may remain on inactive status for an indefinite period of time. In order to move a license from inactive to active status, an individual shall meet the renewal requirements in effect at the time he or she wishes to regain active status and pay the renewal fee and reinstatement fee due at such time as specified in section 71-1,132.49.

(5) Any licensed practical nurse or registered nurse who fails to (a) notify the department that he or she wishes his or her license to lapse or to be placed on inactive status or (b) pay the renewal fee, on or before the date of expiration of his or her license,

shall be given a second notice in the same manner as the first notice advising him or her (i) of the failure to pay, (ii) that the license has expired, (iii) that the department will suspend action for thirty days following the date of expiration, (iv) that upon the receipt of the renewal fee, together with an additional fee of twenty-five dollars, within that time, no order of revocation will be entered, and (v) that upon the failure to receive the amount then due and twenty-five dollars in addition to the regular renewal fee, the license will be revoked in the same manner as provided in section 71-149.

(6) Any licensee who fails to renew his or her license may have such license reinstated upon the recommendation of the board and the payment of the renewal fee and an additional fee of twenty-five dollars if an application for reinstatement is made within one year of revocation.

(7) Any licensee who applies for reinstatement after one year of revocation shall pay the renewal fees for the intervening years and petition the board to recommend reinstatement in the same manner as provided in section 71-161.05. shall be returned to active status by the department upon completion of the requirements of this section; and payment of the renewal fee then due, together with an additional reinstatement fee in an amount to be set by the department pursuant to section 71-1,132-49.

(8) A fee to be determined by the department pursuant to section 71-1,132.49 shall be charged to any licensed nurse for the issuance of a certification of credentials to another state, and to any educational institution or agency located outside of the State of Nebraska.

(9) After January 1, 1983, the department shall require, in the interest of public health, safety, and welfare of the people of this state, that applicants who have not practiced nursing for a period of five or more years, complete a review study of courses to be determined by the board and approved by the department in accordance with the provisions of section 71-1,132.11; and satisfactorily demonstrate their ability to practice nursing by such means as may be determined by the Board of Nursing and approved by the department. Such ~~PROVIDED~~, such means shall be on the basis of uniform criteria and standards established by rules and regulations adopted and promulgated by the Board of Nursing, with the approval of the department.

Sec. 40. That section 71-1,132.29, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.29. The department, upon the recommendation of the board, shall have power to deny, revoke, or suspend any license to practice nursing issued by the department or applied for in accordance with the provisions of sections 71-1,132.04 to 71-1,132.09 and 71-1,132-11 to 71-1,132.37; or to otherwise discipline a licensee upon the grounds and in the manner provided in sections 71-147 to ~~71-161-08 and 71-161-11 to 71-161.19.~~

Sec. 41. That section 71-1,135.02, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,135.02. (1) No optometrist licensed in this state, except an optometrist who has been certified by the department prior to April 30, 1987, or by another state with substantially equivalent requirements for certification as determined by the department upon recommendation of the Board of Examiners in Optometry to use topical ocular pharmaceutical agents for diagnostic purposes prior to April 30, 1987, shall use topical ocular pharmaceutical agents for diagnostic purposes authorized under subdivision (2) of section 71-1,133 unless such person (a) submits to the Board of Examiners in Optometry the fee of not less than twenty dollars nor more than one hundred dollars as determined by the department upon the recommendation of the board, together with evidence of satisfactory completion of a pharmacology course at an institution accredited by a regional or professional accrediting organization which is recognized by the Council on Postsecondary Accreditation or the United States Department of Education and approved by the Department of Health, (b) passes an examination approved by the department, and (c) has been certified by the department upon the recommendation of the Board of Examiners in Optometry as qualified to use topical ocular pharmaceutical agents for diagnostic purposes. The department may approve for certification pursuant to subdivision (1)(a) of this section a pharmacology course if such course includes:

(i) A study of ocular anesthetics, mydriatics, cycloplegics, ocular toxicity of pharmaceutical agents, ocular allergies of ocular agents, and pharmacologic effects of ocular drug substances;

(ii) The consideration of the mechanism of action of anesthetics, cycloplegics, and mydriatics in human beings and the uses of such substances in the diagnosis of occurring ocular disorders;

(iii) At least one hundred hours of classroom education, clinical training, and examination; and

(iv) The correlation of the utilization of pharmaceutical agents and optical instrumentation and procedures.

The department may approve for certification pursuant to subdivision (1)(b) of this section an examination if such examination is:

(A) Based upon the competencies taught in a pharmacology course; and

(B) Administered by an institution accredited by a regional or professional accrediting organization which is recognized by the Council on Postsecondary Accreditation or the United States Department of Education and approved by the Department of Health.

(2) No optometrist licensed in this state on or after April 30, 1987, shall use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision (3) of section 71-1,133 unless such person (a) submits to the Board of Examiners in Optometry the fee of not less than twenty dollars nor more than one hundred dollars as determined by the department upon the recommendation of the board, together with evidence of satisfactory completion of a minimum of one hundred hours since January 1, 1984, of which forty hours shall be classroom education and sixty hours shall be supervised clinical training as it applies to optometry with particular emphasis on the examination, diagnosis, and treatment of the eye and adnexa offered by a school or college approved by the department, (b) passes an examination approved by the department, (c) has been certified by the department upon the recommendation of the Board of Examiners in Optometry to use topical ocular pharmaceutical agents for therapeutic purposes, and (d) has been certified by the department upon the recommendation of the Board of Examiners in Optometry to use topical ocular pharmaceutical agents for diagnostic purposes. The department may approve for certification pursuant to subdivision (2)(a) of this ~~subsection~~ section a therapeutic course or courses of instruction, from an institution accredited by a regional or professional accrediting organization which is recognized by the Council on Postsecondary Accreditation or the United States Department of Education, that have been completed after January 1, 1984. Such course or courses shall include, but not be limited to:

(i) Review of general pharmacology and therapeutics;

- (ii) Review of ocular therapeutic pharmacology;
- (iii) Diagnosis and treatment of diseases of the lid, lacrimal system, conjunctiva, sclera, and episclera;
- (iv) Diagnosis of corneal disease and trauma including corneal foreign bodies;
- (v) Diagnosis and treatment of anterior segment eye diseases;
- (vi) Clinical procedures related to the diagnosis and treatment of the eye and adnexa;
- (vii) Ocular manifestations of systemic disease;
- (viii) Review of systemic disease syndromes;
- (ix) Ocular therapy including management of acute systemic emergencies; and
- (x) Consultation criteria in ocular disease and trauma.

Sec. 42. That section 71-1,136.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,136.01. Each Nebraska-licensed optometrist in active practice within the State of Nebraska shall be required on or before August 1 of each even-numbered year, commencing in 1986, to attend thirty-two hours biennially, of which sixteen hours shall be earned annually each year commencing August 1, 1990, of such approved scientific schools, clinics, forums, lectures, or optometric educational seminars, as may be announced and approved by the Board of Examiners in Optometry, as a prerequisite for the licensee's next subsequent license renewal if at least sixteen hours of such educational program are conducted annually in the State of Nebraska and at least thirty-two hours of such educational program are conducted biennially in the State of Nebraska.

Each licensed optometrist in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, certify on forms provided by the Board of Examiners in Optometry that he or she has complied with sections 71-1,133 to 71-1,136 and this section during the preceding two-year period. Such board of examiners shall, on or before August 1 of each even-numbered year, report all licensees who have complied with the educational requirements to the Director of the Bureau of Examining Boards. Licensees who have not complied with such requirements shall not be issued a renewal license unless exempt or excused for good cause shown. The department, on the recommendation

of the Board of Examiners in Optometry, may waive continuing education requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

(1) The licensee holds a Nebraska license but is not practicing optometry in Nebraska;

(2) The licensee has served in the regular armed forces of the United States during part of the twenty-four months immediately preceding the license renewal date;

(3) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four months immediately preceding any license renewal date; and

(4) The licensee was first licensed within the twenty-four months immediately preceding the renewal date provided in section 71-110.

The department, with the consent of the Board of Examiners in Optometry, may adopt and promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing education requirements.

Each licensee shall provide a sworn affidavit listing continuing education activities in which he or she participated or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the license renewal application as may be designed by the department. Each licensee shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.

The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars listed on his or her renewal application.

Sec. 43. That section 71-1,136.03, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,136.03. The Board of Examiners in Optometry, with the approval of the Department of

Health, may adopt and promulgate such rules and regulations as may be reasonable and proper for the purpose of administering such provisions of sections ~~71-134-01~~ and 71-1,133 to ~~71-1,136-02~~ 71-1,136.09 as properly fall within the jurisdiction of the board.

Sec. 44. That section 71-1,142, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,142. As used in the Uniform Licensing Law, unless the context otherwise requires:

(1) Practice of pharmacy shall mean (a) the interpretation and evaluation of prescription orders; (b) the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices; (c) the participation in drug selection, drug utilization review, drug source selection, and drug administration; (d) the proper and safe storage of drugs and devices and the maintenance of proper records therefor; (e) the responsibility for advising, when necessary or when regulated, of therapeutic values, content, hazards, and use of drugs and devices; and (f) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy;

(2) Administration shall mean giving a dosage unit of a drug to a patient;

(3) Board of pharmacy or board shall mean the Board of Examiners in Pharmacy;

(4) Deliver or delivery shall mean the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration;

(5) Department shall mean the Department of Health;

(6) Device shall mean an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a medical practitioner and dispensed by a pharmacist;

(7) ~~(6)~~ Dispense or dispensing shall mean the preparation and delivery of a prescription drug pursuant to a lawful order of a medical practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;

(8) ~~(7)~~ Distribute shall mean the delivery of

a drug other than by administering or dispensing;

(9) ~~(8)~~ Person shall mean an individual, corporation, partnership, association, or other legal entity;

(10) ~~(9)~~ Labeling shall mean the process of preparing and affixing of a label to any drug container, exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation;

(11) ~~(10)~~ Pharmacist shall mean any person who (a) is licensed by the State of Nebraska to practice pharmacy; (b) compounds or dispenses drugs and medicines, or fills the prescriptions of medical practitioners; or (c) advertises drugs, drug store, pharmacy, apothecary, hospital pharmacy, dispensary, or any combination of such titles, or any title or description of like import;

(12) ~~(11)~~ Pharmacy shall mean (a) any establishment, place, or location, which is advertised as a pharmacy, drug store, apothecary, or any establishment where the practice of pharmacy is carried on except as exempted in section 71-1,143, and (b) any establishment, place, or location which is used as a pick-up point, or drop point, including kiosks, for prescriptions to be filled or where prescription medication is made ready for delivery to the patient;

(13) ~~(12)~~ Drugs, medicines, and medicinal substances, shall mean all poisonous, dangerous, or deleterious substances and preparations for external or internal use, and (a) articles recognized in the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them; (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans; (c) articles, except food, intended to affect the structure or any function of the human body; and (d) articles intended for use as a component of any articles specified in subdivision (a), (b), or (c) of this subdivision, except any device or its components, parts, or accessories, and except patent and proprietary medicines;

(14) ~~(13)~~ Medical practitioner shall mean any licensed physician, surgeon, podiatrist, dentist, or other person licensed to write prescriptions intended for treatment or prevention of disease or body function in humans;

(15) ~~(14)~~ Pharmacist in charge shall mean a pharmacist licensed by the State of Nebraska to practice pharmacy who has been designated on a pharmacy permit or designated by a public or private hospital licensed by the Department of Health as being responsible for the practice of pharmacy in the pharmacy for which such permit is issued or such hospital's inpatient pharmacy;

(16) ~~(15)~~ Pharmacy intern shall mean a student currently enrolled in, or a graduate of, an accredited college or school of pharmacy serving his or her internship. Such pharmacy intern may compound and dispense drugs and medicines and fill prescriptions only in the presence of and under the immediate personal supervision of a licensed pharmacist who must either be the person to whom the pharmacy permit is issued or in the actual employ of the permittee;

(17) ~~(16)~~ Prescription drug or legend drug shall mean (a) a drug which under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements: ~~(a)~~ (i) Caution: Federal law prohibits dispensing without prescription, or ~~(b)~~ (ii) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian; or (b) a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by medical practitioners only;

(18) ~~(17)~~ Prescription drug order or prescription shall mean a lawful written or verbal order of a medical practitioner for a drug;

(19) ~~(18)~~ Nonprescription drugs shall mean nonnarcotic medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of this state and the federal government; and

(20) ~~(19)~~ Supportive pharmacy personnel shall mean any individual who is trained and qualified, according to the written standards of the employing hospital inpatient pharmacy, to perform routine pharmacy functions, under the supervision of a licensed pharmacist, which do not require the use of professional judgment, in connection with the preparation and distribution of medications.

Sec. 45. That section 71-1,147.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.03. If a person applying for a permit to conduct a pharmacy is not a licensed

pharmacist in this state, the permit when issued shall also bear the name of the pharmacist licensed in this state designated on the application as being the pharmacist in charge and responsible for the practice of pharmacy in the establishment for which the permit is sought, except that a medical practitioner who dispenses drugs or medicinal substances to his or her own patients, with a pharmacy permit, may assume the same responsibilities as a pharmacist in charge. If such pharmacist in charge subsequently severs his or her position in the pharmacy, the permit shall be automatically suspended until such time as the person holding the permit informs the board of the name of the new pharmacist in charge designated as being responsible for the practice of pharmacy in the establishment for which the permit is sought, when, upon the recommendation of the board, an amended permit shall be issued by the Department of Health department upon return of the original permit and payment of a fee of ten twenty-five dollars.

No pharmacist shall be designated pharmacist in charge of more than one pharmacy, except that a pharmacist may be pharmacist in charge of two pharmacies, if (1) the pharmacies are not open simultaneously and (2) at least one of the pharmacies is open no more than twenty hours per week.

Sec. 46. That section 71-1,147.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.04. If the holder of a permit desires to move his or her pharmacy to a new location, he or she shall file an application for an amended permit to conduct the pharmacy at the new location. Upon and upon the recommendation of the Board of Examiners in Pharmacy board, an amended permit shall be issued by the Department of Health department. The fee for such amended permit to accompany the application shall be ten twenty-five dollars.

Sec. 47. That section 71-1,147.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.05. If a person desires to acquire an existing pharmacy, he must or she shall file an application for a new permit in advance of acquiring the pharmacy and, upon recommendation of the Board of Examiners in Pharmacy board, a new permit shall be issued by the Department of Health department. The permit previously issued shall become null and void upon the date upon which the pharmacy is acquired by the

person applying for the new permit. The fee for such new permit, to accompany the application, shall be one hundred fifty dollars.

Sec. 48. That section 71-1,147.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.06. Upon the death of a permittee, the Board of Examiners in Pharmacy must board shall be notified within fifteen days. If the pharmacy is to be continued by the estate or heirs, or by a person representing the estate or heirs, an application for an amended permit must shall be filed within thirty days. A fee of ten twenty-five dollars shall be paid for such amended permit. If any other person desires to continue the pharmacy, an application for a new permit must shall be made as otherwise provided.

Sec. 49. That section 71-1,147.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.07. If any person wants to conduct a pharmacy, an application must shall be filed for a permit to conduct each pharmacy in this state. The fee for such initial permit shall be one hundred fifty dollars, and the permit when issued shall be in force until July 1 of the year following its issuance unless previously suspended or revoked for cause. The permit shall be renewed annually on or before July 1 of each year and shall not be transferable. The fee for such annual renewal shall be fifty seventy-five dollars and shall accompany the application.

Applications for renewal of permits shall be mailed by the Department of Health department to each permitholder not later than June 1. If an application to renew a permit is received from the permittee after July 1, the Board of Examiners in Pharmacy board may impose a penalty equal to the renewal fee and the Department of Health department shall refuse to issue the renewal permit until such penalty is paid in addition to the original renewal fee. Failure of any permitholder to receive an application blank shall not relieve him or her from the penalty hereby imposed.

Sec. 50. That section 71-1,147.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.08. (1) Except as otherwise provided in section 71-1,147.01, a person desiring to open a new pharmacy must shall file an application for a permit not less than thirty days prior to the contemplated opening date. Before a permit may be granted for the operation

of a new pharmacy, an inspection shall be made by a duly qualified representative of the board to determine whether all of the requirements for such a permit have been fulfilled. If all of the requirements have been fulfilled, ~~upon recommendation of the board, the Department of Health~~ the department shall issue a permit for the operation of the new pharmacy. The fee for such permit, to accompany the application, shall be one hundred fifty dollars.

(2) Any person desiring to open a new pharmacy who is not required to obtain a permit under section 71-1,147.01 shall file an application for initial inspection at least thirty days prior to the contemplated opening date. Upon satisfactory completion of the inspection the ~~Department of Health~~ department shall issue the pharmacy an initial inspection certificate. The pharmacy shall post such certificate in a conspicuous place within view of the public. The fee for such certificates issued on the basis of an inspection conducted after May 10, 1983, shall be one hundred fifty dollars. Within six months after May 10, 1983, the ~~Department of Health~~ department shall issue an initial certificate to each pharmacy existing on May 10, 1983, which was initially inspected prior to such date and which was not required to obtain a permit pursuant to section 71-1,147.01.

(3) Commencing six months after May 10, 1983, any public or private hospital pharmacy which does not display an initial inspection certificate issued pursuant to subsection (2) of this section shall be subject to a six-month suspension of the license of the public or private hospital.

(4) The ~~Department of Health~~ department shall, except as provided in subsection (5) of this section, inspect each pharmacy in the state at least once every two years year. The Division of Licensure and Standards of the Department of Health shall have primary authority to inspect pharmacies of public and private hospitals licensed by the department and shall coordinate routine inspections of pharmacies in hospitals licensed by the department. The board or its representatives shall immediately report any suspected violation of the minimum pharmacy standard to the Division of Licensure and Standards of the Department of Health, which shall take remedial action. Such violation, if proved, shall be grounds for denial, suspension, or revocation of the license of the hospital under section 71-2023.

(5) The ~~Department of Health~~ department may, upon recommendation by the board and the Division of

Licensure and Standards of the Department of Health, accept the inspection of a hospital pharmacy conducted by the Joint Commission on the Accreditation of Hospitals in lieu of the inspection required pursuant to subsection (4) of this section if the Director of Health determines that the commission standards are equal to or more stringent than the standards of the department.

(6) The department shall charge an annual inspection fee for each pharmacy inspected pursuant to subsection (4) or (5) of this section which does not possess a permit issued pursuant to section 71-1,147.07. Such fee shall be ~~fifty seventy-five~~ dollars and shall be paid into the Nebraska Pharmaceutical Fund.

Sec. 51. That section 71-1,147.09, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,147.09. The ~~Department of Health department~~, upon the recommendation of the board, is hereby authorized to adopt and promulgate rules and regulations:

(1) For the enforcement of sections 71-1,142, 71-1,143, and 71-1,147 to 71-1,147.14;

(2) To establish minimum requirements regarding adequate facilities for the safe storage of narcotic drugs and other drugs requiring refrigeration or other special storage;

(3) For equipment, facilities, and utilities for the prescription department;

(4) To establish minimum standards governing sanitation, orderliness, cleanliness, library requirements, ventilation, and prescription and other record keeping;

(5) To establish minimum standards governing the definition and application of computers or other electronic record systems in pharmacy;

(6) To establish minimum standards for the practice of nuclear pharmacy;

(7) To establish minimum standards for the dispensing of drugs or medicinal substances in unit-dose or unit-of-use containers; ~~and~~

(8) To establish minimum standards for compounding and dispensing sterile parenteral products; ~~and~~

(9) To establish minimum standards governing the inspection of pharmacies to demonstrate compliance with sections 28-401 to 28-445, 28-1437 to 28-1439.01, 71-1,142 to 71-1,147.33, 71-2401 to 71-2405, and 71-2501 to 71-2512 and the Nebraska Drug Product Selection Act and such rules and regulations as are adopted and

promulgated by the department pursuant to such sections and act. Such standards shall include, but not be limited to: (a) Criteria for successful completion of an opening inspection; (b) criteria for successful completion of an annual inspection; and (c) criteria for the issuance of a written warning notice listing specific violations to which the permittee shall respond in writing to the department, by the date stated on the warning notice, stating that the violations listed in the warning notice have been corrected.

The minimum standards and requirements for the practice of pharmacy and for public or private hospital pharmacies licensed by the Department of Health department shall be consistent with and no more or less stringent than the minimum requirements and standards established by the department under sections 71-2017 to 71-2029.

Sec. 52. That section 71-1,147.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.10. (1) The Department of Health department shall, upon the recommendation and findings of the Board of Examiners in Pharmacy, deny an application for a permit to conduct a pharmacy, or revoke or suspend a permit, or an application for renewal thereof, following proper hearing by the Department of Health, should the applicant or permittee be found guilty of any of the following acts or omissions refuse renewal of a permit on any of the following grounds:

(a) (1) Conviction of any crime involving moral turpitude;

(b) (2) Obtaining a pharmacy permit by false representation or fraud;

(c) (3) Operating a pharmacy without a registered pharmacist responsible for the practice of pharmacy;

(d) (4) The compounding and dispensing of drugs and medicines or the filling of a prescription by a person other than a registered pharmacist or by an intern in pharmacy, without the presence of and the immediate personal supervision of a registered pharmacist;

(e) (5) A conviction of a violation of any of the provisions of sections 71-1,142, 71-1,143, and 71-1,147 to 71-1,147.14 or of a felony, or, if a natural person, the revocation or suspension of a license to practice pharmacy in this state;

(f) (6) Unprofessional conduct, which is

hereby defined to include: ~~(a)~~ (i) Misrepresentation or fraud in the conduct of a pharmacy; ~~(b)~~ (ii) aiding or abetting an unlicensed person to practice pharmacy; ~~(c)~~ (iii) the dispensing over the counter without a prescription of a drug which under state or federal law or regulation is prohibited from being dispensed without a prescription or the renewal of such a prescription without the authorization of the prescriber; ~~(d)~~ (iv) the dispensing of a different drug in place of the drug ordered or prescribed without the express permission of the person ordering or prescribing the same; or ~~(e)~~ (v) any fraudulent act in drug product selection whereby the purchaser is charged for the prescribed brand rather than the selected product which is deemed to be chemically and therapeutically equivalent;

(g) ~~(7)~~ Violation of the rules and regulations governing the practice of pharmacy as adopted and promulgated under authority of section 71-1,147.09 by the Department of Health department; and

(h) ~~(8)~~ Suggesting, soliciting, ordering, assisting, or abetting a pharmacist in the violation of any of the offenses set forth in sections 71-147 and 71-148, ; and

(2) ~~(9)~~ Nothing contained in this section shall be construed to prohibit any hospital, licensed by the Department of Health department, from establishing rules and regulations regarding the method by which medical staff members shall agree to order or prescribe drugs and medicines for patients of such hospitals.

(3) If the department determines to deny, revoke, suspend, or refuse renewal of a permit, it shall send to the applicant or permittee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, revocation, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or permittee, within such thirty-day period, requests a hearing in writing. The applicant or permittee shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or permittee. The decision shall become final thirty days after a copy of such decision is mailed unless the applicant or permittee within such thirty-day period appeals the decision pursuant to section 71-1,147.12. The procedure

governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations adopted and promulgated by the department.

(4) The proceeding shall be summary in its nature and triable as an equity action. Affidavits may be received in evidence in the discretion of the Director of Health. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing, the director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers:

(a) Issue a censure or reprimand against the permittee;

(b) Suspend judgment;

(c) Place the permittee on probation;

(d) Place a limitation or limitations on the permit and upon the right of the permittee to operate a pharmacy to the extent, scope, or type of operation for such time and under such conditions as the director finds necessary and proper. The director shall consult with the board in all instances prior to issuing an order of limitation;

(e) Impose a civil penalty not to exceed ten thousand dollars;

(f) Enter an order of suspension of the permit;

(g) Enter an order of revocation of the permit; and

(h) Dismiss the action.

(5) The permittee shall not operate a pharmacy after a permit is revoked or during the time for which it is suspended. If a permit is suspended, the suspension shall be for a definite period of time to be fixed by the director. Such permit shall be automatically reinstated upon the expiration of such period if the current renewal fees have been paid. If such permit is revoked, such revocation shall be permanent, except that at any time after the expiration of two years, application may be made for reinstatement of any permittee whose permit shall have been revoked.

Such application shall be addressed to the director but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the board. The amount of the civil penalty, if any, shall be based on the severity of the violation. If any violation is a repeated or continuing violation, each violation or each day a violation continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any. The department may adopt and promulgate the necessary rules and regulations concerning notice and hearing of such application.

(6) Any civil penalty assessed and unpaid under this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall within thirty days from receipt transmit any collected civil penalty to the State Treasurer for deposit in the Permanent School Fund.

Sec. 53. That section 71-1,147.12, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,147.12. Any permittee shall have the right of appeal to the district court of Lancaster County, from an order of the Department of Health department denying, revoking, or suspending, or refusing renewal of a permit, within thirty days after the entry of such order. The filing with the department within ten days after the entry of the order of a notice in writing of the intention to make such appeal shall be sufficient notice to the adverse party of such appeal. A transcript of all of the pleadings upon which the case was submitted to the department, duly certified, shall be filed in the office of the clerk of the district court of Lancaster County, and such filing shall complete the appeal. The trial in the district court upon such appeal shall be de novo. In the event of an appeal, the decision of the department shall not be stayed by the proceedings on appeal, and such appeal shall not operate to restore the right of the appellant to operate a pharmacy pending disposition of such appeal.

Sec. 54. That section 71-1,153, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,153. Sections ~~71-122~~, ~~71-162~~, and

~~71-1,153 to 71-1,167~~ 71-1,152.01 to 71-1,185 shall be known and may be cited as the Nebraska Veterinary Practice Act.

Sec. 55. That section 71-1,154, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,154. When used in ~~sections 71-1227, 71-1627, and 71-1,153 to 71-1,167~~ the Nebraska Veterinary Practice Act and elsewhere in the Uniform Licensing Law, unless the context otherwise requires:

(1) Animal shall mean any animal other than man and ~~includes~~ shall include birds, fish, and reptiles, wild or domestic, living or dead, except domestic poultry;

(2) Veterinary medicine and surgery shall include veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine;

(3) Practice of veterinary medicine and surgery shall mean:

(a) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility, or infertility, or to render advice or recommendation with regard to any of the above;

(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subdivision (a) of this subdivision; and

(c) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subdivision (a) of this subdivision;

(4) Veterinarian shall mean a person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine;

(5) Licensed veterinarian shall mean a person who is validly and currently licensed to practice veterinary medicine and surgery in this state;

(6) Accredited school of veterinary medicine within the meaning of ~~sections 71-1227, 71-1627, and 71-1,153 to 71-1,167~~ the Nebraska Veterinary Practice Act shall be mean:

(a) One approved by the Department of Health department upon the recommendation of the State Board of Examiners in Veterinary Medicine and Surgery board;

(b) A veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent; and

(c) One that conforms to the standards required for accreditation by the American Veterinary Medical Association;

(7) Person shall mean any individual, firm, partnership, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person;

(8) Board shall mean the State Board of Examiners in Veterinary Medicine and Surgery;

(9) Department shall mean the Department of Health; and

(10) Bureau shall mean the Bureau of Examining Boards of the Department of Health.

Sec. 56. That section 71-1,155, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,155. No person may practice veterinary medicine and surgery in the state who is not a licensed veterinarian or the holder of a valid temporary ~~permit~~ license issued by the board. The Nebraska Veterinary Practice Act shall not be construed to prohibit:

(1) An employee of the federal, state, or local government from performing his or her official duties;

(2) A person who is a regular student in a veterinary school from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian during a school vacation period;

(3) Any merchant or manufacturer from selling feed or feeds whether medicated or nonmedicated;

(4) A veterinarian regularly licensed in another state from consulting with a licensed veterinarian in this state;

(5) Any merchant or manufacturer from selling from his or her established place of business medicines, appliances, or other products used in the prevention or treatment of animal diseases; or any merchant or

manufacturer's representative from conducting educational meetings to explain the use of his or her products or from investigating and advising on problems developing from the use of his or her products;

(6) An owner of livestock or a bona fide farm or ranch employee from performing any act of vaccination, surgery, pregnancy testing, or the administration of drugs in the treatment of domestic animals under his or her custody or ownership nor the exchange of services between persons or bona fide employees who are principally farm or ranch operators or employees in the performance of these acts;

(7) A member of the faculty of a veterinary school or veterinary science department from performing his or her regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school or veterinary science department or in connection with a continuing education course or seminar;

(8) Any person from selling or applying any pesticide, insecticide, or herbicide;

(9) Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals;

(10) Any person from treating or in any manner caring for domestic chickens, turkeys, or waterfowl, which are specifically exempted from the Nebraska Veterinary Practice Act; or

(11) Any person from performing dehorning or castrating livestock, not to include equidae.

For purposes of the Nebraska Veterinary Practice Act, castration shall be limited to the removal or destruction of male testes.

Sec. 57. That section 71-1,157, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,157. Any person holding a valid license to practice veterinary medicine and surgery in this state on October 23, 1967, shall be recognized as a licensed veterinarian and shall be entitled to retain such status so long as he or she complies with the provisions of sections 71-122, 71-162, and 71-1,153 to 71-1,167, including annual renewal of the license Nebraska Veterinary Practice Act and the provisions of the Uniform Licensing Law relating to veterinary medicine and surgery.

Sec. 58. That section 71-1,158, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,158. Any person desiring a license to

practice veterinary medicine and surgery in this state shall make written application to the board. The application shall show that the applicant is twenty-one years of age or more, a graduate of an accredited veterinary school, and a person of good moral character and such other information and proof as the board may require by rule and regulation. The application shall be accompanied by a fee of not less than seventy-five dollars nor more than two hundred dollars, the amount of such fee to be determined by a rule or regulation adopted and promulgated by the department with the approval of the board.

If the board determines that the applicant possesses the proper qualifications, the board shall admit the applicant to the next examination, or if the applicant is eligible for a license without examination under section 71-1,160, the board may forthwith recommend that he or she be issued a license. If an applicant is found not qualified to take the examination or for a license without examination, the board shall immediately notify the applicant in writing of such finding and the grounds therefor. ~~An applicant found unqualified may request a hearing on the question of his or her qualification under the procedure set forth in section 71-1,165.~~ Any applicant who is found not qualified shall be allowed the return of his or her application fee, less the state's share of fifteen percent contributed to the General Fund.

Sec. 59. That section 71-1,160, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,160. The board may direct the issuing of a license without a written examination to a qualified applicant who furnishes satisfactory proof that he or she is a graduate of an accredited veterinary school and who:

(1) Has for one year prior to filing his or her application been a practicing veterinarian licensed in a state, territory, or district of the United States having license requirements, at the time the applicant was first licensed, which were substantially equivalent to the requirements of ~~sections 71-122, 71-162, and 71-1,153 to 71-1,167~~ the Nebraska Veterinary Practice Act; or

(2) Has prior to filing his or her application successfully completed and passed the examination conducted by the National Board of Veterinary Examiners.

At its discretion, the board may orally or practically examine any person qualifying for licensing

under the provisions of this section.

Sec. 60. That section 71-1,161, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,161. The board may direct recommend to the department the issuance without examination of a temporary permit license to practice veterinary medicine and surgery in this state to a nonresident veterinarian validly licensed in another state, territory, or district of the United States, who pays a fee of twenty-five dollars, but such upon receipt of a fee of fifty dollars and the completed application to (1) any person who has a current license to practice veterinary medicine and surgery in another state, territory, or district of the United States or (2) any person who has graduated from an approved veterinary school and has passed an examination conducted by the National Board of Veterinary Examiners. Such temporary permit license shall be issued for a period of no more than sixty days or valid until the date on which the results of the next licensure examination are available to the department the next regularly scheduled examination and no more than one permit shall be issued to a person during each calendar year. A temporary permit may be summarily revoked by majority vote of the board without a hearing it may not be renewed. The holder of a temporary license shall be entitled to practice veterinary medicine and surgery.

Sec. 61. That section 71-1,162, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,162. (1) All licenses shall expire on April 1 of each even-numbered year, but may be renewed by registration with the department and payment of the renewal fee which shall be in an amount between ten and fifty dollars. The board of examiners shall establish such fee which shall be based on the administrative costs of renewal. The board shall receive at least five dollars and the department at least five dollars, less the state's share of fifteen percent contributed to the General Fund.

(2) At least thirty days before the expiration of his or her license, as set forth in subsection (1) of this section, the department shall notify each licensee by a letter addressed to him or her at his or her last place of residence as noted upon its records that his or her license will expire on April 1 and provide him or her with a form for reregistration. The department shall issue a new certificate of registration to all

persons registering under the Uniform Licensing Law. Any licensee who fails to pay the renewal fee on or before the date of expiration of his or her license shall be given a second notice in the same manner advising him or her (a) of his or her failure to pay; (b) that his or her license on that account has expired; (c) that the department will suspend action for thirty days following the date of expiration; (d) that upon the receipt of the renewal fee, together with an additional fee of ten dollars, within that time, no order of revocation will be entered; and (e) that upon failure to receive the amount then due and ten dollars in addition to the regular renewal fee, as provided by subsection (1) of this section, an order of revocation will be entered.

(3) Any licensee who allows his or her license to lapse by failing to renew the same, as provided in subsections (1) and (2) of this section, may be reinstated upon the recommendation of the board and the payment of the regular and additional renewal fees then due.

(4) The department may waive the payment of the registration renewal fee of a licensed veterinarian during the period when he or she is on active duty with any branch of the armed services of the United States, not to exceed the longer of three years or the duration of a national emergency.

(5) Each Nebraska-licensed veterinarian in active practice within the State of Nebraska shall be required on or before April 1 of each even-numbered year, commencing in 1986, to attend thirty-two hours of such approved scientific schools, clinics, forums, lectures, or veterinary educational seminars, as may be announced and approved by the Board of Examiners in Veterinary Medicine and Surgery board, as a prerequisite for the licensee's next subsequent license renewal if at least thirty-two hours of such educational program are conducted biennially in the State of Nebraska.

Each licensed veterinarian in active practice within the State of Nebraska shall, on or before April 1 of each even-numbered year, certify on forms provided by the Board of Examiners in Veterinary Medicine and Surgery that he or she has complied with sections 71-17153 to 71-17167 and this subsection during the preceding two-year period. Such board shall, on or before April 1 of each even-numbered year, report all licensees who have complied with the educational requirements to the Director of the Bureau of Examining Boards. Licensees who have not complied with such

requirements shall not be issued a renewal license unless exempt or excused for good cause shown. The department, on the recommendation of the Board of Examiners in Veterinary Medicine and Surgery, may waive continuing education requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

(a) The licensee holds a Nebraska license but is not practicing veterinary medicine in Nebraska;

(b) The licensee has served in the regular armed forces of the United States during part of the twenty-four months immediately preceding the license renewal date;

(c) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four months immediately preceding any license renewal date; and

(d) The licensee was first licensed within the twenty-four months immediately preceding the renewal date provided in this section.

The department, with the consent of the Board of Examiners in Veterinary Medicine and Surgery, may adopt and promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing education requirements.

Each licensee shall provide a sworn affidavit listing continuing education activities in which he or she participated or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the license renewal application as may be designed by the department. Each licensee shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.

The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars listed on his or her renewal application.

Sec. 62. That section 71-1,163, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

71-1,163. Upon written complaint sworn to by any person the board may, after a fair hearing and by a concurrence of all members, revoke or suspend for a certain time the license of, or otherwise discipline, any licensed veterinarian for any of the following reasons:

(1) The employment of fraud, misrepresentation, or deception in obtaining a license;
 (2) An adjudication of insanity;
 (3) Chronic inebriety or habitual use of drugs;

(4) The use of advertising or solicitation which is false, misleading, or is otherwise deemed unprofessional under regulations adopted by the board;

(5) Conviction or cash compromise of a felony or other public offense involving moral turpitude;

(6) Incompetence, gross negligence, or other malpractice in the practice of veterinary medicine;

(7) Having professional association with or employing any person practicing veterinary medicine unlawfully; A license to practice veterinary medicine and surgery may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 71-155 when the applicant or licensee is guilty of any of the acts or offenses specified in sections 71-147 and 71-148 and for any of the following reasons:

(8) (1) Fraud or dishonesty in the application or reporting of any test for disease in animals;

(9) (2) Failure to keep veterinary premises and equipment in a clean and sanitary condition;

(10) (3) Failure to report, as required by law, or making false report of, any contagious or infectious disease;

(11) (4) Dishonesty or gross negligence in the inspection of foodstuffs or the issuance of health or inspection certificates; or

(12) (5) Cruelty to animals. 7

(13) Revocation of a license to practice veterinary medicine by another state, territory, or district of the United States on grounds other than nonpayment of registration fee; or

(14) Unprofessional conduct as defined in regulations adopted by the board.

Sec. 63. That section 71-1,178, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,178. (1) The board shall formulate

guidelines for the consideration of applications by licensed veterinarians or license-exempt veterinarians to supervise approved animal technicians. Any application made by a veterinarian shall include all of the following-

(a) The qualifications, including related experience, of the approved animal technician intended to be employed;

(b) The professional background of the veterinarian, and

(c) A description by the veterinarian of his or her practice and the way in which the approved technician will be utilized-

(2) The board shall approve an application by a licensed veterinarian to supervise an approved animal technician when the board is satisfied that (a) the proposed technician is a graduate of an approved program as determined by the board; (b) the proposed technician is fully qualified to perform veterinary medical assistance under the responsible supervision of a licensed veterinarian, and (c) animal health will be adequately protected by the arrangement proposed in the application- (1) The department, upon recommendation of the board, shall approve an application submitted by a veterinarian for supervision of an animal technician when (a) the animal technician is a graduate of an approved program and (b) the veterinarian has a valid Nebraska license.

(2) Any veterinarian seeking approval for supervision of an approved animal technician shall submit an application which is signed by the animal technician and the veterinarian with whom he or she is associated. Such application shall (a) identify the settings within which the animal technician is authorized to practice and (b) describe the agreed-upon veterinary functions that the animal technician may perform as provided in section 71-1,175.

(3) If the supervision of an approved animal technician is terminated by the veterinarian or approved animal technician, the veterinarian shall notify the department of such termination. A veterinarian who thereafter assumes the responsibility for such supervision shall obtain a certificate of approval to supervise an approved animal technician from the department prior to the use of the animal technician in the practice of veterinary medicine and surgery.

Sec. 64. That section 71-1,180, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,180. The board department may deny, suspend, or revoke the certificate of approval to supervise an approved animal technician held by any veterinarian when it finds that the provisions of sections 71-1,168 to 71-1,185 or any of the rules and regulations adopted and promulgated by the board under sections 71-1,168 to 71-1,185 are not being complied with. in cases of failure to pay the required fees; denial shall be automatic. Any denial, suspension, or revocation shall be subject to review pursuant to the provisions of the Administrative Procedure Act.

Sec. 65. That section 71-1,183, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,183. {1} A fee of five dollars shall accompany the annual application to the board by a veterinarian or group of veterinarians for authorization to supervise an approved animal technician-

{2} Upon approval by the board of an application for certification of an approved animal technician, the animal technician applicant shall be charged a fee of five dollars, and a fee of five dollars shall accompany each yearly application for renewal of the approved animal technician certificate-

{3} All fees received shall be expended in the administration of sections 71-1,168 to 71-1,185 for approved animal technicians. The department shall establish and collect the following fees:

(1) For an initial application by a veterinarian for approval to supervise an approved animal technician, an amount not less than five dollars nor more than one hundred dollars;

(2) For annual renewal of the approval to supervise an approved animal technician, an amount not less than five dollars nor more than seventy-five dollars;

(3) For an initial application for certificate as an approved animal technician, an amount not less than five dollars nor more than seventy-five dollars;

(4) For annual renewal of certification as an approved animal technician, an amount not less than five dollars nor more than forty dollars; and

(5) For a duplicate original certificate, five dollars.

Sec. 66. That section 71-1,186, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,186. As used in this act sections 71-1,186 to 71-1,196 and elsewhere in the Uniform

Licensing Law, unless the context otherwise requires:

(1) Board shall mean the Board of Examiners in Audiology and Speech-Language Pathology;

(2) Practice of audiology shall mean the application of principles, methods, and procedures for testing, measuring, and monitoring hearing, preparation of ear impressions and selection of hearing aids, aural rehabilitation, hearing conservation, vestibular testing of patients when vestibular testing is done as a result of a referral by a physician, and instruction related to hearing and disorders of hearing for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions; but shall not include the practice of medical diagnosis, medical treatment, or surgery;

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

(4) Practice of speech-language pathology shall mean the application of principles, methods, and procedures for the evaluation, monitoring, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, or language for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions; but shall not include the practice of medical diagnosis, medical treatment, or surgery;

(5) Speech-language pathologist shall mean an individual who presents himself or herself to the public by any title or description of services incorporating the words speech-language pathologist, speech therapist, speech correctionist, speech clinician, language pathologist, language therapist, language clinician, logopedist, communicologist, aphasiologist, aphasia therapist, voice pathologist, voice therapist, voice clinician, phoniatrist, or any similar title, term, or description of services; and

(6) Communication ~~aide~~ assistant shall mean any person who, following specified training and receiving specified supervision, provides specified limited structured communication services, which are developed and supervised by a licensed audiologist or speech-language pathologist, in the areas in which the supervisor holds licenses.

Sec. 67. That section 71-1,190, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

71-1,190. Every applicant for a license to practice audiology or speech-language pathology shall submit to the board satisfactory evidence of completion of (1) present proof of a master's degree or its equivalent in audiology or speech-language pathology from an academic program approved by the board, with academic credit distributed as prescribed by the board; (2) at least three hundred hours of clinical experience in audiology and speech-language pathology with such hours distributed as required by the board; and (3) (2) present proof of at least nine calendar months of full-time professional experience or eighteen months of at least half-time professional experience in speech-language pathology or audiology, supervised in the area in which licensure is sought, and (3) successfully complete an examination approved by the department on recommendation of the board. Presentation of official documentation of certification by a nationwide professional accrediting organization approved by the board shall be deemed equivalent to subdivisions (1), (2), and (3) of this section. The board shall require that the applicant, to qualify for licensure, shall have passed an examination to be determined by the board-

Sec. 68. That section 71-1,194, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,194. A temporary license to practice audiology or speech-language pathology may be granted to persons who establish residence in Nebraska and who meet all the requirements for a license except passage of the examination required by this act section 71-1,190. Such temporary license shall be valid only until the next examination, at which time it shall expire. The fee to be paid and procedures date on which the results of the next licensure examination are available to the department and it may not be renewed. The department shall establish and collect a fee of not less than ten dollars nor more than fifty dollars for issuance of the temporary license, for the denial, refusal of renewal, suspension, or revocation of or other disciplinary action against such a temporary license shall be the same as for a license, except that the fee paid shall equal the renewal fee rather than the initial fee for a license. The department shall have the power to deny, revoke, limit, suspend, or otherwise discipline a temporary license to practice audiology or speech-language pathology upon the grounds and in

accordance with sections 71-147 to 71-161.19.

Sec. 69. That section 71-1,195.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,195.01. (1) Commencing January 1, 1986, upon application and payment of a the registration fee in an amount prescribed by the Department of Health and sufficient to reimburse the department for its administrative costs for registration pursuant to this section of not less than twenty dollars nor more than one hundred dollars as determined by the department upon the recommendation of the board, the department shall register to practice as a communication aide assistant any person who:

(a) ~~(1)~~ Is a graduate of an accredited high school or its equivalent;

(b) ~~(2)~~ Has successfully completed all required training pursuant to sections ~~71-1,190-01 and 71-1,195-01 to 71-1,195-09~~ 71-1,195.04 and 71-1,195.05 and any annual continuing education required pursuant to section 71-1,195.09; and

(c) ~~(3)~~ Has demonstrated ability to reliably maintain records and provide treatment under the supervision of a licensed audiologist or speech-language pathologist.

(2) Such registration shall be valid for one year from the date of issuance. The fee for renewal of such registration shall be the same as for the initial registration.

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

Sec. 70. That section 71-1,195.02, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,195.02. The department shall adopt and promulgate guidelines for the approval of an application by a licensed audiologist or speech-language pathologist to supervise communication aides. If the applicant meets such guidelines, he or she shall be approved as a supervising audiologist or speech-language pathologist. The department, whenever necessary for the protection of the public health and safety, may require such information from the licensed audiologist or speech-language pathologist as is necessary to determine if the communication aide will be properly utilized and supervised.

(1) The department, upon recommendation of the

board, shall approve an application submitted by an audiologist or speech-language pathologist for supervision for a communication assistant when:

(a) The communication assistant meets the requirements for registration pursuant to section 71-1,195.01;

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

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

(2) Any audiologist or speech-language pathologist seeking approval for supervision of a communication assistant shall submit an application which is signed by the communication assistant and the audiologist or speech-language pathologist with whom he or she is associated. Such application shall (a) identify the settings within which the communication assistant is authorized to practice and (b) describe the agreed-upon functions that the communication assistant may perform as provided in section 71-1,195.06.

(3) If the supervision of a communication aide assistant is terminated by the an audiologist, or speech-language pathologist, or by a communication aide assistant, the audiologist or speech-language pathologist shall notify the department of such termination. An audiologist or speech-language pathologist who thereafter assumes the responsibility for such supervision shall obtain a certificate of approval to supervise a communication aide assistant from the department prior to the use of the communication aide assistant in the practice of audiology or speech-language pathology.

Sec. 71. That section 71-1,195.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,195.03. The Department of Health department may, after proper notice, shall have the power to deny, suspend, limit, or revoke, or otherwise discipline the registration of a communication aide assistant or the approval of a supervising audiologist or speech-language pathologist granted under sections 71-1,195.01 and 71-1,195.02 upon the grounds and in accordance with sections 71-147 to 71-161.19 for any violation for any violation of sections 71-1,190.01 and 71-1,195.01 to 71-1,195.09. Any person whose registration or approval is denied, suspended, limited, or revoked may request a hearing before the department. Such request shall be in writing and shall be made within twenty days after issuance of the notice by the

department-

Sec. 72. That section 71-1,195.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,195.04. Initial training for a communication aides assistant shall consist of at least twelve hours and shall include:

- (1) An overview of speech and language and the practice of audiology and speech-language pathology;
- (2) Ethical and legal responsibilities;
- (3) Normal language, speech, and hearing functions;
- (4) Observing and recording patient progress;
- (5) Behavior management and modification; and
- (6) Record keeping.

Sec. 73. That section 71-1,195.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,195.05. In addition to the initial training required by section 71-1,195.04, any communication aide assistant assigned to provide aural rehabilitation programs shall have additional training which shall include, but not be limited to:

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

Sec. 74. That section 71-1,195.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,195.06. A communication aide assistant may, under the supervision of a licensed audiologist or speech-language pathologist, perform the following duties and activities:

- (1) Implement programs and procedures designed by a licensed audiologist or speech-language pathologist which develop or refine receptive and expressive verbal and nonverbal communication skills;
- (2) Maintain records of implemented procedures which document a patient's responses to treatment;
- (3) Provide input for interdisciplinary treatment planning, inservice training, and other activities directed by a licensed audiologist or speech-language pathologist;
- (4) Prepare instructional material to

facilitate program implementation as directed by a licensed audiologist or speech-language pathologist;

(5) Recommend speech, language, and hearing referrals for evaluation by a licensed audiologist or speech-language pathologist;

(6) Follow plans, developed by the licensed audiologist or speech-language pathologist, that provide specific sequences of treatment to individuals with communicative disorders; and

(7) Chart or log patient responses to the treatment plan.

Sec. 75. That section 71-1,195.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,195.07. ~~Communication aides~~ A communication assistant shall not:

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

(2) Interpret evaluation results or treatment progress;

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

(4) Plan patient treatment programs;

(5) Represent himself or herself as an audiologist or speech-language pathologist or as a provider of speech, language, or hearing treatment or assessment services; or

(6) Independently initiate, modify, or terminate any treatment program.

Sec. 76. That section 71-1,195.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,195.08. (1) When supervising the communication ~~aide~~ assistant, the supervising audiologist or speech-language pathologist shall:

(a) Provide direct onsite supervision for the first treatment session;

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

(c) Provide regular and frequent inservice training, either formal or informal, which is directly related to the particular services provided by the communication ~~aide~~ assistant; and

(d) Prepare semiannual performance evaluations of the communication ~~aide~~ assistant.

(2) The supervising audiologist or

speech-language pathologist shall be responsible for all aspects of patient treatment.

Sec. 77. That section 71-1,195.09, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,195.09. The supervising audiologist or speech-language pathologist shall provide the communication ~~aid~~ assistant with an evaluation, supervision, and training, including at least ten hours each year of inservice training in areas related to the services provided by the communication ~~aid~~ assistant pursuant to section 71-1,195.08. Such training shall be verified by annual reports to the department. The audiologist or speech-language pathologist shall keep accurate records of such evaluation, supervision, and training.

Sec. 78. That section 71-1,211, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,211. The board shall administer examinations to qualified applicants at least once a year. The board may administer examinations limited to specific fields of psychology and grant to successful applicants licenses limited to practice in such specific fields. An applicant who fails his or her examination may be reexamined at a subsequent examination. The examination shall be prescribed and conducted by the Board of Examiners of Psychologists, and board or the board may adopt a national standardized examination and a board-developed examination. Such examinations shall be approved by the Department of Health, department and shall be elementary and practical in character, but sufficiently thorough to test the fitness of the candidate to practice psychology. Such examinations shall include questions on principles of learning, motivation, perception, thinking, personality development, behavior problems, measuring and testing of personality, psychological remedial and intervention techniques, and such other subjects as the board of examiners shall prescribe.

Sec. 79. That section 71-1,212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,212. ~~(1)~~ An applicant ~~is~~ shall be qualified to take the examination to be licensed as a psychologist if:

(1) (a) He or she has received a doctoral degree in psychology from an ~~accredited~~ institution of higher education accredited by the American

Psychological Association or a designated program accredited by the American Psychological Association, by the joint American Association of State Psychology Boards and the Council for the National Register of Health Service Providers in Psychology, or by an equivalent accrediting agency as determined by the board;

(2) (b) He or she is at least twenty-one years of age; and

(3) (e) He or she is of good moral character.

(2) An accredited institution of higher education for the purpose of sections 71-101 to 71-1,196 and 71-1,206 to 71-1,221, shall be one approved pursuant to section 71-128, and shall further be defined as and have the following requirements and standards: (a) its equipment and facilities for instruction in psychology shall be adequate and modern and shall be kept up to date; (b) it shall maintain an adequate library consisting of up-to-date text books and periodicals dealing with subjects and questions in the field of psychology; (c) it shall have an adequate faculty teaching psychology and its associated branches; (d) it shall offer instruction in basic branches of psychology including principles of learning, motivation, perception, thinking, personality development, behavior problems, measuring and testing of personality, and psychological remedial and intervention techniques; and (e) it shall show evidence of modern methods of instruction in the field of psychology as these methods now, or as they develop in the future, are or become recognized generally by teachers and practitioners in the profession of psychology.

Sec. 80. That section 71-1,223, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,223. (1) The department shall certify as qualified to practice clinical psychology, by review of credentials and without examination, any person (a) who holds a doctoral degree from an accredited institution of higher education, as defined provided in section 71-128, in a program of training in clinical psychology approved by the Department of Health department upon recommendation of the Board of Examiners of Psychologists; and (b) who has completed at least one year of supervised postdoctoral clinical experience.

(2) Such training program shall include an internship in a setting in which a portion of the clients served are suffering from mental, emotional, and behavioral disorders and shall provide students with (a)

training in assessment and intervention techniques and combine theory and practice throughout such training, (b) values of professional and scientific responsibility, integrity, and identification with the profession, (c) research training and experience, and (d) familiarity with the related fields of anthropology, biology, education, genetics, neurology, psychiatry, and sociology.

(3) The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations to govern the procedures and requirements for clinical certification pursuant to this section.

Sec. 81. That section 71-1,224, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,224. (1) Any person holding a doctoral degree in psychology who does not meet the requirements provided in section 71-1,223 shall qualify for certification without examination if such person (a) has completed a clinical internship approved by the Department of Health department upon the recommendation of the board, Board of Examiners of Psychologists and (b) has completed the equivalent of at least two additional years of supervised postdoctoral clinical experience.

(2) For purposes of this section, approved internship shall mean an internship in which (a) a psychologist with experience in professional training as well as professional practice is responsible for the integrity and quality of the training program, (b) interaction of interns with other professions is encouraged, (c) the internship provides a range of supervised experience in assessment, intervention, and research into the applications of psychology, (d) adequate facilities and training staff are provided, and (e) the internship comprises at least one year of full-time experience or two years of half-time experience.

(3) The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations to govern procedures and requirements for clinical certification pursuant to this section.

Sec. 82. That section 71-1,225, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,225. (1) Any licensed psychologist with training or experience in clinical psychology who does not meet the requirements of section 71-1,223 or 71-1,224 shall, upon application to the department, be

examined by three licensed psychologists who have been certified as qualified to practice clinical psychology and have been appointed by the department to determine the candidate's qualification. Such examination shall be approved by the department and shall include evaluation of work samples and oral and written questions to determine the candidate's familiarity with and judgment in using a broad range of clinical skills.

(2) A psychologist failing such examination may appeal to the director for a hearing and review of the examination. After such hearing and review, the director may grant certification, appoint another examination committee, or affirm the judgment of the original examiners. A psychologist shall be certified by the department upon recommendation of at least two of the examiners. A psychologist failing such examination may, after one year, be reexamined upon application to the department and payment of another certification fee.

(3) The department, upon the recommendation of the Board of Examiners of Psychologists, shall adopt and promulgate rules and regulations to govern the procedures and requirements for clinical certification by examination.

Sec. 83. That section 71-1,232, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,232. (1) The board may issue temporary permits to students and graduates of training programs approved by the board for a period of one year. The department upon recommendation of the board shall establish and collect a fee of not less than ten dollars nor more than fifty dollars. Temporary permits may be extended by the board for one consecutive year with the approval of the department upon a showing of good cause. The fee for such extension shall be the same as for the initial temporary permit.

(2) An applicant shall have up to two years from the date of issuance of a temporary permit to successfully complete the examination. After such period the board may require the applicant to submit proof of an additional amount of training, approved by the board, prior to reexamination.

(3) A temporary permit issued to a person who is a student in an approved training program shall be valid only so long as that person is a student in good standing or a graduate of the program. The Director of Health may suspend a temporary permit for a violation of the Uniform Licensing Law.

(4) The board shall, with the approval of the

department, adopt and promulgate rules and regulations for issuance of relating to the issuance and administration of temporary permits for students and graduates of approved training programs to practice respiratory care prior to licensure.

Sec. 84. That section 71-1,233, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,233. The board shall, with the approval of the department, issue a license to perform respiratory care to an applicant who, on or before July 17, 1986, has passed the Certified Respiratory Therapy Technician or Registered Respiratory Therapist examination administered by the National Board for Respiratory Care or the appropriate accrediting agency acceptable to the department. Any applicant who has not passed either of such examinations as of July 17, 1986, and who, through written evidence, verified by oath, demonstrates that he or she is currently a respiratory care practitioner shall be given a temporary license to practice respiratory care for a period of up to ~~twenty-four~~ twenty-eight months from ~~July 17, 1986~~ January 1, 1987. Such applicant shall pass the licensure examination administered by the board during the ~~twenty-four month~~ twenty-eight-month period in order to continue to practice respiratory care after the temporary license has expired.

Sec. 85. That section 71-1,258, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,258. (1) A person shall be qualified to be a certified master social worker if he or she (a) has a doctorate or a master's degree in social work from an approved educational program, (b) has had a minimum of at least three thousand hours of experience, in addition to the master's or doctorate degree, in social work under the supervision of a certified master social worker, (c) provides evidence to the board that he or she meets the requirements of subdivisions (1)(a) and (1)(b) of this section, and (d) satisfactorily passes an examination approved by the board. The department, upon the recommendation of the board, may adopt and promulgate rules and regulations defining the experience required under subdivision (1)(b) of this section.

(2) A person shall be qualified to be a certified social worker if he or she (a) has a baccalaureate or master's degree in social work (i) from an approved educational program or (ii) from any program of social work education and training in which the

person was enrolled between July 17, 1983, and October 1, 1987, if the person applies to the department for a certificate by October 1, 1990, and (b) provides evidence to the board of his or her professional education.

Sec. 86. That section 71-1,262, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,262. No certificate holder shall disclose any confidential information he or she may have acquired from persons consulting him or her in his or her professional capacity except:

(1) With the written consent of (a) such person or (b) in the case of death or disability, the personal representative of the person's estate, any other person authorized to sue on behalf of such person, or the beneficiary of an insurance policy regarding such person's life, health, or physical condition;

(2) As such privilege disclosure of confidential information is limited authorized by the laws of the State of Nebraska or as the board may determine by rule and regulation; and

(3) When the person or persons waive waives the privilege confidentiality of the information by bringing charges against the certificate holder.

Sec. 87. That section 71-1,265, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,265. (1) The Legislature finds that:

(a) The unregulated practice of professional counseling can clearly harm or endanger the health, safety, and welfare of the public;

(b) The public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by a less cost-effective means than state regulation of the practice of professional counseling. The Legislature also finds that certified professional counselors must exercise independent judgment and that professional education, training, and experience are required to make such judgments.

(2) The Legislature further finds that the practice of professional counseling in the State of Nebraska is not sufficiently regulated for the protection of the health, safety, and welfare of the public. It declares that this is a matter of statewide concern and it shall be the policy of the State of Nebraska to promote high standards of professional

performance by those engaged in the practice of professional counseling persons representing themselves as professional counselors. The Legislature further declares its intention to regulate the practice of professional counseling and use of the title professional counselor by all others not certified for such purpose pursuant to the Uniform Licensing Law, or exempted in section 71-1,267.

Sec. 88. That section 71-1,266, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,266. As used in sections 71-1,265 to 71-1,277, unless the context otherwise requires:

(1) Board shall mean the Board of Examiners in Professional Counseling;

(2) Certified professional counselor shall mean a person who is certified to practice professional counseling pursuant to the Uniform Licensing Law and who holds a current certificate issued by the department pursuant to section 71-1,270;

(3) Department shall mean the Department of Health; and

(4) Professional counseling shall mean the offering or rendering of counseling services to individuals or groups for remuneration and shall include, but not be limited to:

(a) Assisting individuals or groups through the counseling relationship to develop understanding, define goals, plan action, and change behavior with the goal of reflecting interests, abilities, aptitudes, and needs as they are related to personal and social concerns, educational progress, and occupations;

(b) Appraisal activities which shall mean selecting, administering, scoring, and interpreting instruments designed to assess a person's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, except that nothing in this subdivision shall be construed to authorize a certified professional counselor or registered counselor to engage in the practice of clinical psychology as defined in sections 71-1,221 and section 71-1,222;

(c) Referral activities which evaluate data to identify which persons or groups may better be served by other specialists;

(d) Research activities which shall mean reporting, designing, conducting, or consulting on research in counseling with human subjects;

(e) Therapeutic, vocational, or personal rehabilitation in relationship to adapting to physical,

emotional, or intellectual disability; and

(f) Consulting on any activity listed in this section, 7 and

(5) Registered counselor shall mean any person who engages in the practice of professional counseling; who holds himself or herself out to the public as a person engaging in the practice of professional counseling; and who is registered with the department pursuant to section 71-1,269. Registered counselors shall include, but not be limited to, individuals who employ any theory or technique that offers assistance or attempts to offer assistance to an individual or individuals in amelioration or adjustment of mental, emotional, or behavioral problems, including techniques to achieve sensitivity and awareness of self and others and the development of human potential. Registered counselor shall include every person who employs a variety of disciplines, theories, and techniques under differing titles such as hypnotherapist, reality counselor, psychic healer, or reevaluation counselor.

Sec. 89. That section 71-1,267, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,267. After December 17, 1987 September 1, 1988, no person shall engage in the practice of professional counseling shall represent himself or herself as a certified professional counselor unless he or she is certified or registered for such purpose pursuant to the Uniform Licensing Law, 7 except that nothing in the Uniform licensing law shall prevent:

(1) Qualified members of other professions who are licensed, certified, or registered under Chapter 7 or under Chapter 71, articles 1, 13, 17, and 28, from doing work consistent with the scope of practice of their respective professions;

(2) Any person employed by an agency, bureau, or division of the federal government, state government, or any other political subdivision, including agencies formed under the Interstate Cooperation Act, from discharging his or her official duties, except that if such person engages in the practice of professional counseling in this state outside the scope of such official duty, he or she shall be certified or registered; or

(3) Members of the clergy from engaging in the practice of counseling within the scope of their duties; counselor educators in counselor education programs which are approved by the board; and students who are pursuing a course of study in a program approved by the

board if such study is performed under supervision of a certified professional counselor or a counselor educator.

Sec. 90. That section 71-1,268, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,268. The Professional Counselor Fund is hereby created. All money in the fund shall be used exclusively by the Bureau of Examining Boards to carry out the statutory and regulatory duties pertaining to the practice of professional counseling. The State Treasurer shall credit to the Professional Counselor Fund; ~~on and after July 17, 1986, all certification, registration, and renewal fees for the practice of professional counseling remitted to the state treasury by the department pursuant to section 71-162, except such amounts distributed pursuant to sections 33-150 and 71-6228.~~ Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 91. That section 71-1,269, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,269. ~~(1)~~ A person shall be qualified to be a certified professional counselor if he or she: ~~(a)~~ ~~(1)~~ Has received a master's degree from an educational program approved by the board; ~~(b)~~ ~~(2)~~ has had three years of full-time experience in professional counseling approved by the board after receipt of the master's degree, except that ~~(i)~~ ~~(a)~~ one year of experience may be obtained prior to the granting of the master's degree if the master's program included an internship component acceptable to the board and ~~(ii)~~ ~~(b)~~ thirty graduate semester hours beyond the master's degree may be substituted for one year of required experience if the hours are clearly related to the field of professional counseling. In no case may the applicant have less than one year of full-time experience in professional counseling; and ~~(c)~~ ~~(3)~~ except as provided in section 71-1,271, satisfactorily passes an examination approved by the board. The department, upon the recommendation of the board, may adopt and promulgate rules and regulations prescribing the experience required under subdivision ~~(i)~~~~(b)~~ ~~(2)~~ of this section.

~~(2)~~ A person shall be qualified to be a registered counselor if he or she submits his or her name and address to the department.

Sec. 92. That section 71-1,270, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

71-1,270. (1) The department shall issue a certificate, signed by the director, to each person who is qualified to be a certified professional counselor. The department shall issue a letter of confirmation of registration to each person who submits his or her name and address to the department.

(2) A letter of confirmation of registration shall not be construed to provide any assessment or endorsement by the State of Nebraska of the qualifications of a registered counselor and no such registrant shall use the title registered counselor or any initial or combination of initials implying registration in connection with a business or advertisement based upon having been registered under the Uniform Licensing Law.

Sec. 93. That section 71-1,271, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,271. Upon payment of the fee provided in section 71-162 and the provision of evidence to the board of his or her professional education, training, experience, and qualifications to practice certified professional counseling, a certificate to practice as a certified professional counselor shall be issued without examination to any applicant who (1) applies to the department for a certificate by ~~December 1, 1987~~ September 1, 1988, and (2) satisfies the requirements established in subdivisions (1)(a) and (1)(b) (2) of section 71-1,269.

Sec. 94. That section 71-1,274, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,274. No certified professional counselor or registered counselor shall disclose any information he or she may have acquired from persons consulting him or her in his or her professional capacity except:

(1) With the written consent of (a) such person or (b) in the case of death or disability, the personal representative of the person's estate, any other person authorized to sue on behalf of such person, or the beneficiary of an insurance policy regarding such person's life, health, or physical condition;

(2) As such ~~privilege is limited disclosure of confidential information is authorized~~ by the laws of the State of Nebraska or as the board may determine by rule and regulation; and

(3) When the person or persons ~~waive the privilege~~ waives the confidentiality of the information

by bringing charges against the certified professional counselor, ~~or registered counselor.~~

Sec. 95. That section 71-1,275, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1,275. (1) Notwithstanding any other provision in the Uniform Licensing Law, the initial certificate ~~or registration~~ shall be valid for two years and shall expire on ~~December 1, 1989~~ September 1, 1990. Commencing on ~~December 1, 1989~~ September 1, 1990, a certificate ~~or registration~~ shall be renewed on ~~December~~ September 1 of each ~~odd-numbered~~ even-numbered year. The department, on the recommendation of the board, shall set the initial certification ~~and registration~~ fees and the biennial certification ~~and registration~~ renewal fees for certified professional counselors and ~~registered counselors~~ pursuant to section 71-162.

(2) The board shall refund any fee paid by a person registering with the department as a registered counselor under section 71-1,269 as such section existed prior to the operative date of this section.

Sec. 96. That section 71-1,277, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,277. (1) Any person who ~~engages in the practice of professional counseling~~ represents himself or herself as a certified professional counselor without first being certified ~~or registered~~ pursuant to the Uniform Licensing Law shall be guilty of a Class IV misdemeanor.

(2) Any person certified pursuant to the Uniform Licensing Law who engages in the practice of professional counseling without complying with such law may have such certification denied, refused renewal, limited, revoked, or suspended and shall otherwise be subject to disciplinary measures under sections 71-147 to ~~71-161-08 and 71-161-11 to 71-161-18.~~

~~(3) Any person registered pursuant to the Uniform Licensing Law who engages in the practice of professional counseling in violation of the rules and regulations adopted pursuant to section 71-1,275 may have such registration denied, refused renewal, limited, revoked, or suspended pursuant to sections 71-155 to 71-161-08 and 71-161-11 to 71-161-18.~~

Sec. 97. That section 71-3,106, Revised Statutes Supplement, 1987, be amended to read as follows:

71-3,106. Nothing in the Nebraska Cosmetology Act shall be construed to apply to or restrict the

activities of the following:

(1) Any person holding a current license or certificate issued pursuant to Chapter 71 when engaged in the usual and customary practice of his or her profession or occupation;

(2) Any person engaged solely in the practice of electrolysis;

(3) Any person engaging solely in ear piercing, tattooing, or other invasive beautification practices;

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

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

(6) Any person practicing within the confines of a hospital, nursing home, massage therapy establishment, funeral establishment, or other similar establishment or facility licensed or otherwise regulated by the department, except that no unlicensed or unregistered person may accept compensation for such practice;

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

(8) Any retail or wholesale establishment or any person engaged in the sale of cosmetics or other beauty products when the products are applied by the customer or when the application of the products are in direct connection with the sale or attempted sale of such products at retail;

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

(10) Any retail or wholesale establishment or any person engaged in the practice or teaching of manicuring.

Sec. 98. That section 71-3,171, Revised Statutes Supplement, 1987, be amended to read as follows:

71-3,171. Disciplinary actions and proceedings shall be carried out as specified in sections 71-147 to ~~71-161-08 and 71-161-11~~ to 71-161.19, except that in all instances the provisions of the Nebraska Cosmetology Act shall have precedence over such sections if there is conflict between them.

Sec. 99. That section 71-519, Revised Statutes Supplement, 1987, be amended to read as follows:

71-519. All infants born in the State of Nebraska shall be screened for phenylketonuria, primary

hypothyroidism, biotinidase deficiency, and such other metabolic diseases as the Department of Health may from time to time specify. Confirmatory tests shall be performed in the event that a presumptive positive result on the screening test is obtained.

The attending physician shall collect or cause to be collected the prescribed specimen or specimens and shall submit or cause to be submitted the same to a laboratory for the performance of such tests within the period prescribed by the Department of Health department. In the event a birth is not attended by a physician, the person registering the birth shall cause such tests to be performed within the period prescribed by the department. The laboratory shall within the period prescribed by the department perform such tests as are prescribed by the department on the specimen or specimens submitted and report the results of these tests to the physician, if any, and the hospital. The laboratory shall report to the department the results of such tests that are presumptive positive or confirmed positive within the period and in the manner prescribed by the department. 7 and the department.

The hospital shall record the collection of specimens for tests for metabolic diseases and the reporting of the results of such tests or the absence of such report. In the event that the specimen was not collected or the report of the results of the tests was not obtained, the hospital shall notify the Department of Health within the period prescribed by the department. The hospital shall report the results of such tests to the department within the period and in the manner prescribed by the department.

Dietary and therapeutic management of the infant with phenylketonuria, primary hypothyroidism, biotinidase deficiency, or such other metabolic diseases as the ~~department~~ Department of Health may from time to time specify shall be the responsibility of the child's parent, guardian, or custodian with the aid of a physician selected by such person.

Sec. 100. That section 71-1330, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1330. (1) Until December 31, 1990, an application for a funeral director's license shall be in writing and verified on a form provided by the department and shall present satisfactory proof that the applicant is of the age of majority and of good moral character and has completed a two-year course in an accredited college or university consisting of sixty

semester hours. Commencing January 1, 1991, an application for a funeral director's license shall be in writing and verified on a form provided by the department and shall present satisfactory proof that the applicant has earned the equivalent of sixty semester hours of college credit, in addition to a full course of study in a mortuary science college. This sixty semester hours shall include the equivalent of (a) six semester hours of English, (b) six semester hours of accounting, (c) eight semester hours of chemistry, (d) twelve semester hours of biological sciences relating to the human body, and (e) six semester hours of psychology or counseling.

(2) The applicant for a license as a funeral director shall also present proof to the department that he or she ~~(a)~~ has completed a full course of instruction in an accredited college of mortuary science approved by the Board of Examiners in Embalming and Funeral Directing and has assisted in conducting not less than twenty-five funerals under the supervision of a funeral director licensed in the State of Nebraska, ~~or (b) has been a licensed funeral director for at least one year in any other state maintaining standards which are equal to or exceed those of Nebraska.~~

(3) When the applicant has satisfied the department that he or she has the qualifications mentioned in ~~subdivision subsection~~ subsection (2)~~(a)~~ of this section or has completed all but the final semester of a full course of instruction in an accredited college of mortuary science, the applicant shall be eligible to take an examination approved by the board. The board may adopt a national standardized examination to constitute all or part of such examination. When the applicant has satisfied the department that he or she has met all qualifications, the applicant may present himself or herself before the board of examiners for a written jurisprudence and vital statistics examination and for examination upon such other subjects as may be recommended by the board and approved by the department. The passing score for examinations ~~shall be set in rules and regulations adopted and promulgated by the department upon recommendation of the board each examination shall be seventy-five.~~

Sec. 101. That section 71-1331, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1331. (1) Every licensed funeral establishment shall pay biennially a fee for the renewal of its license. The renewal fee payable by a licensed

funeral establishment shall be ten dollars. All renewal fees shall become due and payable on February 1 of each even-numbered year. Renewals shall be processed in accordance with ~~subsections (2) and (3) of section 71-110.~~

(2) Any person, partnership, firm, corporation, association, or other organization who which (a) engages directly or indirectly in the business of funeral directing, (b) holds himself, herself, or itself out to the public as a funeral director, (c) performs or attempts to perform any of the services of a funeral establishment or of a funeral director relating to the disposition of dead human bodies, without having complied with sections 71-1325 to 71-1338 and without having first obtained a license, or (d) continues to perform such services after the license has expired or has been revoked or suspended shall be guilty of a Class III misdemeanor and shall be dealt with in the same manner as outlined in section 71-167. Each day so engaged in such business shall constitute and be deemed a separate offense.

Sec. 102. That section 71-1332, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1332. When the license of a funeral establishment has lapsed for any reason, the Department of Health shall have authority to reinstate such lapsed license as provided in ~~subsection (3) of section 71-110.~~ A funeral establishment may assign its license upon a proper showing made to the department as required by its duly adopted and promulgated rules and regulations that the proposed assignee is a qualified and licensed funeral director. A fee of fifteen dollars shall accompany each application for assignment of the license of a funeral establishment. Under no condition or circumstances may a funeral director's license be assigned.

Sec. 103. That section 71-1333, Revised Statutes Supplement, 1987, be amended to read as follows:

71-1333. The department may deny, refuse renewal, revoke, or suspend limit, suspend, or take other disciplinary measures against an application for a license or a currently existing license following proper hearing by the department pursuant to section 71-155 if the applicant or licensee is found guilty of any of the acts or offenses specified in sections 71-147 and 71-148 or the following acts or offenses: (1) Conviction of any crime involving moral turpitude, or

(2) unprofessional conduct, which is hereby defined to include (a) misrepresentation or fraud in the conduct of the business or profession of a funeral director; (b) false or misleading advertising; (c) solicitation (1) Solicitation of dead human bodies by the licensee or his or her agents, assistants, or employees, either prior to or following death; (d) engaging generally in the business of recommending, promotion, selling, or issuing burial contracts; burial certificates, or burial insurance policies; (e) (2) the purchasing of funeral or embalming engagements or the payment of a commission either directly or indirectly or offer of payment of such commission to any agent, assistant, or employee for the purpose of securing business; (f) gross immorality; (g) aiding or abetting an unlicensed person or persons to practice funeral directing or embalming; (h) (3) using indecent, profane, or obscene language in the presence of a dead human body or within the immediate presence or hearing of the family, relatives, or friends of the deceased prior to the burial of the deceased; (i) (4) soliciting or accepting any remuneration, commission, bonus, or rebate in consideration of the recommending or causing a dead human body to be placed in any crematory, mausoleum, or cemetery; (j) (5) using any casket or part thereof which has previously been used as a receptacle for, or in connection with, the shipment, burial, or other disposition of a dead human body without first identifying such item as used; (k) (6) violations of any state law, municipal ordinance, or any rule or regulation of the department or other body having regulatory powers, relating to the handling, custody, care, or transportation of dead human bodies; (l) fraud or misrepresentation in obtaining a license; (m) (7) refusal to surrender promptly the custody of a dead human body upon request of a person or persons lawfully entitled to the custody thereof; (n) or (8) taking undue advantage of a patron or patrons, or being found guilty of fraud, or misrepresentation in the selling of merchandise or service to patrons; (o) or (e) a finding by the board that the applicant or licensee has at any time engaged in the business of funeral directing without a license in violation of any prior or existing law of the State of Nebraska-

Sec. 104. That section 71-1345, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1345. (1) The Department of Health department, upon the recommendation of the Board of

Examiners in Embalming and Funeral Directing, may approve without examination any person who after examination issue a license to any person who has been duly licensed for at least one year to practice embalming or funeral directing in some other state providing the license from the other state was issued upon requirements which are which has requirements comparable to those of Nebraska for obtaining a license to practice embalming or funeral directing. The applicant shall provide evidence to the board that he or she has the required education, training, and good moral character required by the laws of this state. The applicant shall also provide evidence of meeting the requirements prescribed in section 71-139. The applicant shall take and pass the state jurisprudence and vital statistic forms examination with a grade of seventy-five on each examination. That he or she has been in the active practice of embalming or funeral directing in some other state for a period of not less than one year and shall submit a certificate of the proper licensing authority in such state which attests to the fact that such applicant was licensed to practice embalming or funeral directing and that such license was not suspended or revoked.

(2) If the applicant meets the requirements of subsection (1) of this section, the board shall certify such fact to the Department of Health and the department upon receipt of such certification shall issue a license to practice either embalming or funeral directing, or a license for each, in the State of Nebraska to such applicant.

Sec. 105. That section 71-1724, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1724. Renewal of certification as a nurse practitioner shall be at the same time and in the same manner as renewal of a license as a registered professional nurse and shall require that:

(1) The current license as a registered professional nurse in the State of Nebraska is valid and in good standing and continuing education requirements, if any, have been met;

(2) Documentation of continued clinical competencies be made, if deemed necessary by the boards, either by reference, peer review, or examination; and

(3) Payment be made of a biennial certification fee not in excess of thirty dollars. 7
and

(4) Any nurse practitioner who fails to make

application for renewal on or before January 1 of the renewal year shall be considered delinquent and shall be required to apply for reinstatement of the lapsed certification and to submit payment of the renewal fees then due, together with an additional reinstatement fee not in excess of ten dollars-

Sec. 106. That section 71-2017.01, Revised Statutes Supplement, 1987, be amended to read as follows:

71-2017.01. As used in sections 71-2017 to 71-2029, unless the context otherwise requires:

(1) Care shall mean the exercise of concern or responsibility for the comfort and welfare of the residents of a facility by the owner, occupant, administrator, or operator of the facility in addition to the provision of food and shelter to the residents and shall include, but not be limited to, the maintenance of a minimum amount of supervision of the activities of the residents of the facility as well as the providing of a minimum amount of assistance to the residents and shall also include personal care, hereby defined as the provision of health-related services for individuals who are in need of a protective environment but who are otherwise able to manage the normal activities of daily living;

(2) Hospital shall mean (a) any institution, facility, place, or building which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or medical care over a period exceeding twenty-four consecutive hours of two or more nonrelated individuals suffering from illness, condition, injury, or deformity, (b) a place which is devoted primarily to the rendering over a period exceeding twenty-four consecutive hours of obstetrical or other medical care for two or more nonrelated individuals, or (c) any institution, facility, place, or building in which any accommodation is primarily maintained, furnished, or offered for the medical and nursing care over a period exceeding twenty-four consecutive hours of two or more nonrelated aged or infirm persons requiring or receiving convalescent care, and shall include, but not be restricted to, facilities or parts of facilities which provide space for general acute hospitals, short-term hospitals, rehabilitation hospitals, long-term-care hospitals, psychiatric or mental hospitals, and emergency hospitals or treatment centers and shall not be construed to include the residence, office, or clinic of a private physician or of an association of physicians, any other health

practitioner, or any practitioner or association of practitioners licensed pursuant to Chapter 71, in which residence, office, or clinic patients are not treated or given care for a period in excess of twenty-four consecutive hours;

(3) General acute hospital shall mean a hospital having a duly constituted governing body which exercises administrative and professional responsibility and an organized medical staff which provides inpatient care, including medical, nursing, surgical, anesthesia, laboratory, diagnostic radiology, pharmacy, and dietary services. Such services may be provided through a contract or agreement;

(4) Short-term hospital shall mean a hospital that (a) is primarily devoted to the diagnosis and treatment of individuals requiring short-term treatment or treatment of diagnosis consistent with the medical support available and (b) has written coordination agreements with a general acute hospital for transfers and quality assurance programs. Short-term hospital shall not mean a facility for the treatment of mental diseases, a rehabilitation hospital, an alcoholic treatment center, or a drug treatment center;

(5) Rehabilitation hospital shall mean an inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services provided under professional supervision;

(6) Long-term-care hospital shall mean any hospital, any distinct part of any hospital, or any portion of a hospital which is primarily devoted to providing the care and services as set forth in subdivisions (10) and (11) of this section;

(7) Psychiatric or mental hospital shall mean a hospital which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(8) Emergency hospital or treatment center shall mean a hospital primarily devoted to the diagnosis and treatment of individuals requiring emergency outpatient services and emergency care and with written coordination agreements with a general acute hospital for transfers and quality assurance programs;

(9) Health clinic shall mean any institution, facility, place, building, or agency which is operated under the name or title of health clinic, health center, or any other word or phrase of like or similar import, either independently or in connection with any other

purpose, for the purpose of providing or making available at such institution, facility, place, building, or agency on an outpatient basis and for a period not exceeding twenty-four consecutive hours advice, counseling, diagnosis, treatment, care, or services relating to the preservation or maintenance of health primarily or exclusively to persons not residing or confined in such institution, facility, place, or building and which is not licensed as a hospital. Satellite clinics operated on an intermittent basis at a specific location or site and providing services within a portion of the total geographic area served by a licensed health clinic need not be licensed, but may operate as a part of the parent clinic and share administration and services. Specific types or categories of health clinics may be further defined by appropriate rule and regulation of the Department of Health not inconsistent with this definition and in no case shall be construed to include the residence, office, or clinic of a private physician or an association of physicians, any other health practitioner or association of practitioners, or any practitioner licensed pursuant to Chapter 71 unless ten or more abortions, as defined in subdivision (1) of section 28-326, are performed during any one calendar week in such residence, office, or clinic;

(10) Skilled nursing facility shall mean any institution or facility, or a distinct part of any institution or facility, which is primarily devoted to providing to inpatients skilled nursing care and related services for patients who require medical or nursing care or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. A skilled nursing facility shall provide at least one registered nurse on duty on the day shift seven days per week and a licensed registered nurse or licensed practical nurse on the other two shifts seven days per week. The Director of Nursing Services shall be a licensed registered nurse;

(11) Intermediate care facility shall mean any institution, facility, place, or building in which accommodation and board for a period exceeding twenty-four consecutive hours and also nursing care and related medical services are provided for two or more nonrelated individuals who are ill, injured, or disabled but not in need of hospital or skilled nursing facility care, but who by reason of illness, disease, injury, deformity, disability, convalescence, or physical or mental infirmity require such nursing care and related

medical services. An intermediate care facility shall provide at least one registered nurse or licensed practical nurse on duty on the day shift seven days a week and at least one registered nurse, licensed practical nurse, or care staff member on duty on the other two shifts. An intermediate care facility shall provide a Director of Nursing Services, who shall be a licensed registered nurse, to administer, supervise, delegate, and evaluate nursing and nursing support services of the facility, except that an intermediate care facility that, as of February 1, 1987, has in its employ a licensed practical nurse as Health Service Supervisor may retain such licensed practical nurse in that capacity after March 27, 1987. Such facility shall not be required to provide a Director of Nursing during the continuance of employment of such licensed practical nurse if such licensed practical nurse is and continues to be supervised by a licensed physician, osteopath, or registered nurse who, by employment or contract, is above such licensed practical nurse in the line of authority of the facility and is responsible, in the interest of the facility, for his or her hire, transfer, promotion, layoff, recall, promotion, discharge, assignment, reward, or discipline and adjustment of grievances or the effective recommendation of such action, which responsibility is not merely routine or clerical in nature but requires the exercise of independent judgment. Nothing contained in this section shall be construed to expand the scope of practice of a licensed practical nurse to permit an intermediate care facility utilizing a licensed practical nurse as Health Service Supervisor to provide nursing services other than those which are within the scope of practice of a licensed practical nurse as defined in section 71-1,132.06. The Director of Nursing Services or Health Service Supervisor shall serve on the day shift five days a week, eight hours per day, except when it is necessary to vary working hours to provide supervision on other shifts, and may satisfy the day-shift nurse requirement for five of seven days per week if he or she can meet both the nursing care needs of the patients or residents for that shift and his or her administrative and supervisory responsibilities as Director of Nursing Services or Health Service Supervisor;

(12) ~~Until October 17, 1988,~~ intermediate Intermediate care facility for the mentally retarded shall mean any institution, facility, place, or building, not licensed as a hospital, that provides accommodation, board, training or habilitation services,

advice, counseling, diagnosis, treatment, and care, including nursing care and related medical services, for a period exceeding twenty-four consecutive hours for ~~four~~ fifteen or more nonrelated individuals who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities. ~~On and after October 1, 1988, all references to intermediate care facilities for the mentally retarded shall be void. The requirement of fifteen or more nonrelated individuals shall not apply to any intermediate care facility for the mentally retarded which has a valid license as of January 1, 1988;~~

(13) Residential care facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more nonrelated individuals who by reason of illness, disease, injury, deformity, disability, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own affairs, but do not require the daily services of a licensed registered or practical nurse;

(14) Domiciliary facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation and supervision to four or more individuals, not related to the owner, occupant, manager, or administrator thereof, who are essentially capable of managing their own affairs, but who are in need of supervision, including supervision of nutrition, by the facility on a regular, continuing basis, but not necessarily on a consecutive twenty-four-hour basis. This definition shall not include those homes or facilities providing casual care at irregular intervals;

(15) Mental health center shall mean any institution, facility, place, or building which is used to provide, for a period exceeding twenty-four consecutive hours, accommodation, board, and advice, counseling, diagnosis, treatment, care, or services primarily or exclusively to persons residing or confined in the facility who are afflicted with a mental disease, disorder, or disability and which is not licensed as a hospital;

(16) Center for the developmentally disabled shall mean any residential facility, place, or building, not licensed as a hospital, which is used to provide

accommodation, board, and training, advice, counseling, diagnosis, treatment, care, including medical care when appropriate, or services primarily or exclusively to four or more persons residing in the facility who have developmental disabilities;

(17) Alcoholic treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals having any type of habituation, dependency, or addiction to the use of alcohol and in which there are provided guidance, supervision, and personal services relating to those areas of adjustment which enable the alcohol dependent or alcoholic to move into independent living in normal surroundings, but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one, and shall include facilities in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the facility having any type of habituation, dependency, or addiction to the use of alcohol. Specific types or categories of alcoholic treatment centers may be further defined by appropriate rule and regulation of the Department of Health not inconsistent with this definition;

(18) Drug treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals who have any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug and in which there are provided guidance, supervision, and personal services relating to those areas of adjustment which enable the drug user, dependent, or addict to move into independent living in normal surroundings, but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one, and shall include facilities in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the facility having any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug. Specific types or categories of drug treatment centers

may be further defined by appropriate rule and regulation of the Department of Health not inconsistent with this definition;

(19) Home health agency shall mean a public agency, private organization, or subdivision of such an agency or organization which is primarily engaged in providing skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to patients in a place of temporary or permanent residence used as the patient's home under a plan of care as prescribed by the attending physician and which meets the rules, regulations, and standards as established by the Department of Health. Parent home health agency shall mean the primary home health agency which establishes, maintains, and assures administrative and supervisory control of branch offices and subunits. Branch office shall mean a home health agency which is at a location or site providing services within a portion of the total geographic area served by the parent agency and is in sufficient proximity to share administration, supervision, and services with its parent agency in a manner that renders it unnecessary for the branch independently to meet licensure requirements. A branch office shall be part of its parent home health agency and share administration and services. Subunit shall mean a home health agency which serves patients in a geographic area different from that of the parent agency and which, by virtue of the distance between it and the parent agency, is judged incapable of sharing administration, supervision, and services on a daily basis and shall independently meet the licensing requirements for home health agencies. Home health agency shall not include private duty nursing registries as long as the individual is the direct payee from the patient. Home health agency shall not apply to the practice of home health care by other licensed medical persons as authorized by the practice of their particular specialty nor to the individuals providing homemaker or chore services within the home; and

(20) Developmental disability shall mean a severe, chronic disability of a person which (a) is attributable to a mental or physical impairment or combination of mental and physical impairment, (b) is manifested before the person attains the age of twenty-two, (c) is likely to continue indefinitely, (d) results in substantial functional limitations in three or more of the following areas of major life activity: Self-care; receptive and expressive language; learning;

mobility; self-direction; capacity for independent living; and economic self-sufficiency, and (e) reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; and

(21) Qualified mental retardation professional shall mean any person (a) who has satisfied any of the educational requirements listed in this subdivision, (b) who has at least two years of additional experience in treating persons with mental retardation, one of which was spent in an administrative capacity, and (c) who has offered proof of fulfillment of the requirements prescribed in this subdivision to the department. Educational requirements to satisfy this subdivision shall include the following: A psychologist with at least a master's degree in psychology from an accredited college or university and with specialized training or one year of experience in treating persons with mental retardation; a physician licensed under the Uniform Licensing Law to practice medicine and surgery or osteopathy and with specialized training or one year of experience in treating persons with mental retardation; an educator with a degree in education from an accredited college or university and with specialized training or one year of experience in working with persons with mental retardation; or a certified social worker or certified master social worker certificated under the Uniform Licensing Law who has at least three years' social work experience and specialized training or one year of experience in working with persons with mental retardation.

Sec. 107. That section 71-2023, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2023. The Department of Health shall issue licenses for the operation of ~~institutions~~ health care facilities subject to sections 71-2017 to ~~71-2030~~ 71-2029 which are found to comply with the provisions of such sections ~~71-2017 to 71-2030~~ and such rules and regulations as are lawfully adopted and promulgated by said the department.

The Department of Health shall department may (1) deny, suspend, or revoke licenses of such health care facilities or (2) take other disciplinary measures against the license of any such health care facility, other than a hospital, on any of the following grounds:

(a) ~~(1)~~ Violation of any of the provisions of

sections 71-2017 to ~~71-2030~~ 71-2029 or the rules and regulations lawfully adopted and promulgated pursuant thereto;

(b) ~~(2)~~ Permitting, aiding, or abetting the commission of any unlawful act; or

(c) ~~(3)~~ Conduct or practices detrimental to the health or safety of patients, residents, and employees of ~~said institution~~; PROVIDED, the facility, except that this provision shall not be construed to have any reference to healing practices authorized by law.

~~Should If~~ the department ~~determine~~ determines to deny, suspend, or revoke a license, it shall send to the applicant or licensee, by either registered or certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, or revocation shall become final thirty days after the mailing of the notice; unless the applicant or licensee, within such thirty-day period, ~~shall give written notice of desire for requests~~ requests a hearing in writing. Thereupon the applicant or licensee shall be given a fair hearing before the ~~Department of Health~~ department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by either registered or certified mail to the applicant or licensee. The decision shall become final thirty days after a the copy thereof is mailed; unless the applicant or licensee, within such thirty-day period, appeals the decision under section 71-2027. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations. prescribed by the department.

Other disciplinary actions taken shall be in accordance with the applicable provisions of sections 108 to 114 of this act or sections 71-6025 to 71-6031.

Sec. 108. (1) For purposes of sections 108 to 114 of this act, unless the context otherwise requires, facility or licensee shall mean a health care facility licensed pursuant to sections 71-2017 to 71-2029 other than a nursing home or a hospital and, when appropriate, the holder of the license for such a facility.

(2) If a licensee commits a violation

specified in section 71-2023 which creates an imminent danger or substantial possibility of death or serious physical harm to one or more of the facility's patients or residents, the department may prohibit the licensee from admitting or readmitting any patient or resident until necessary corrections are made but in no case for a period exceeding eleven months from the date the department places a prohibition on admissions and readmissions. If the licensee violates the prohibition on admissions and readmissions, the department shall charge the licensee a fine of five thousand dollars for each violation. If the licensee fails to make the necessary corrections within the prescribed period, the department may take disciplinary action in accordance with section 71-2023. If the licensee seeks an injunction to prevent the department from enforcing the prohibition on admissions and readmissions, no restraining order or temporary injunction shall be granted at the time of the commencement of the action.

(3) If a licensee commits a violation specified in section 71-2023 which has a direct or immediate relationship to the health, safety, or security of the facility's patients or residents but does not fall under subsection (2) of this section, the department may place the license on provisional status which gives the licensee ninety days to correct the violation. If after ninety days the licensee has failed to make the necessary corrections or satisfactory progress toward the corrections, the department may institute action in accordance with subsection (2) of this section or the department may take disciplinary action in accordance with section 71-2023.

(4) If a licensee commits a violation specified in section 71-2023 which does not fall under subsection (2) or (3) of this section, the department may issue a deficiency citation which specifies a reasonable time in which the licensee is required to correct the violation. If after the specified time the licensee has failed to make the necessary corrections or satisfactory progress toward the corrections, the department may institute action in accordance with subsection (2) or (3) of this section or the department may take disciplinary action in accordance with section 71-2023.

Sec. 109. In determining whether a violation will result in a prohibition on admissions and readmissions, placement of the license on provisional status, or issuance of a deficiency citation as prescribed in section 108 of this act, the department

shall consider:

(1) The gravity of the violation, including the probability that death or serious physical or mental harm to a patient or resident will result, the severity of the actual or potential harm, and the extent to which the provisions of applicable statutes, rules, and regulations were violated;

(2) The reasonableness of the diligence exercised by the licensee in correcting the violation;

(3) Any previous violations committed by the licensee; and

(4) The financial benefit to the licensee of committing or continuing the violation.

The department may set forth in rules and regulations specific violations which will result in a particular disciplinary measure.

Sec. 110. When an employee of the department conducting an inspection or investigation of a licensee finds that the licensee has committed a violation specified in section 71-2023, the employee shall promptly notify the licensee and the director or his or her designee of such findings. The director or designee shall review each violation reported and, if the findings are supported by the evidence, shall issue a written citation to the licensee within ten working days after the finding of a violation is made. The citation shall be served upon the licensee personally or by certified mail. Each citation shall specifically describe the nature of the violation, identify the statute, rule, or regulation violated, and state whether admissions and readmissions will be prohibited. The license will be placed on provisional status, or a deficiency citation will be issued pursuant to section 108 of this act.

Sec. 111. (1) When a citation is served upon a licensee pursuant to section 110 of this act and the licensee is not actually involved in the daily operation of the facility, a copy of the citation shall also be mailed to the facility. If the licensee is a corporation, a copy of the citation shall be sent to the corporation's office of record.

(2) No licensee shall be cited for any violation caused by any physician who is not the licensee or an owner or employee of the facility if the licensee presents evidence that reasonable care and diligence have been exercised in notifying the physician of his or her duty to his or her patients or residents in the facility.

Sec. 112. After service of a citation

pursuant to section 110 of this act, the licensee shall:

(1) Within twenty working days, remit to the department a written response stating that the violation will be corrected within the time specified in the citation;

(2) Within twenty working days, notify the department that the licensee desires to informally contest the citation and requests an informal conference with a representative of the department; or

(3) Within twenty working days, notify the department in writing that the licensee intends to formally contest the citation.

Sec. 113. The director or his or her designee shall assign a representative of the department, other than the inspector upon whose inspection the contested citation is based, to hold an informal conference with the licensee within fifteen working days after receipt of a request made pursuant to subdivision (2) of section 112 of this act. Within seven working days of the conclusion of such conference, the representative shall affirm, modify, or dismiss the citation. The representative shall state in writing the specific reasons for affirming, modifying, or dismissing the citation and shall immediately transmit copies of the statement to the director or designee and the licensee. The licensee's copy of such statement shall be transmitted by certified mail. If the representative affirms or modifies the citation, the licensee shall, within five working days after the receipt of the written explanation of the representative, either remit to the department a written response stating that the violation will be corrected within the time specified in the citation or notify the department in writing of the licensee's intent to formally contest the citation.

Sec. 114. Except as provided in subsection (2) of section 108 of this act, a licensee which desires to contest a citation or to further contest an affirmed or modified citation shall do so in the manner provided in the Administrative Procedure Act for contested cases.

Hearings on petitions for judicial review of any final decision regarding a citation for an alleged violation shall be set for trial at the earliest possible date. The times for pleadings and hearings in such action shall be set by the judge of the court with the object of securing a decision at the earliest possible time.

Sec. 115. That section 71-2041.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2041.01. For the purpose of sections 71-2041.01 to 71-2045.09, unless the context otherwise requires:

(1) Board shall mean the Board of Examiners in Nursing Home Administration;

(2) Administrator or nursing home administrator shall mean any individual responsible for planning, organizing, directing, and controlling the operation of a home for the aged or infirm or an intermediate care facility for the mentally retarded, or who in fact performs such functions, whether or not such functions are shared by one or more other persons. Each administrator shall be full time and responsible for the operation of only one such licensed facility. Notwithstanding this subdivision or any other provision of law, the administrator of an intermediate care facility for the mentally retarded may be either a licensed nursing home administrator or a qualified mental retardation professional;

(3) Home for the aged or infirm or nursing home shall mean any institution or facility licensed as such by the Department of Health pursuant to sections 71-2017 to 71-2029, except an intermediate care facility for the mentally retarded, whether proprietary or nonprofit, including, but not limited to, homes for the aged or infirm owned or administered by the federal or state government or an agency or political subdivision thereof; and

(4) Until October 1, 1988, intermediate Intermediate care facility for the mentally retarded shall mean any institution or facility licensed as such by the Department of Health pursuant to sections 71-2017 to 71-2029, whether proprietary or nonprofit, including, but not limited to, intermediate care facilities for the mentally retarded owned or administered by the federal or state government or an agency or political subdivision thereof. On and after October 1, 1988, all references to intermediate care facilities for the mentally retarded shall be void;

Sec. 116. It is the intent of the Legislature that quality health care be provided to all citizens of the state who receive home health aide services through a licensed home health agency. A method of accomplishing quality health care is to ensure adequate training of unlicensed personnel who provide home health aide services by establishing minimum standards for training, supervision, and course approval. The purpose of sections 116 to 130 of this act is to establish requirements for the provision of home health

aide services.

Sec. 117. As used in sections 116 to 130 of this act, unless the context otherwise requires:

(1) Activities of daily living shall mean assistance with ambulation, toileting, feeding, and similar activities:

(2) Administering medication shall mean giving a dosage unit of a drug to a home health agency patient:

(3) Assistance with medication shall mean the storage of medication, handling and opening containers of medication, reminding home health agency patients of the time for taking medication, and assistance with the application of topical medication:

(4) Basic therapeutic care shall mean basic health care procedures, including, but not limited to, observing and reporting changes in the home health agency patient's condition, responding to emergency situations, measuring vital signs, applying hot and cold applications and nonsterile dressings, and assisting with, but not administering, internal and external medications which are normally self-administered. Basic therapeutic care shall not include health care procedures which require the exercise of nursing or medical judgment:

(5) Department shall mean the Department of Health:

(6) Home health agency shall mean a home health agency as defined in section 71-2017.01:

(7) Home health aide I shall mean a person who (a) is employed by a home health agency to provide personal care and assistance with activities of daily living to patients of the home health agency and (b) has successfully completed a home health aide I training course approved by the department, is a graduate of a school of practical or professional nursing, or is a current nursing student who has completed a course in nursing which includes practical clinical experience in personal care:

(8) Home health aide II shall mean a person who (a) is employed by a home health agency to provide personal care, assistance with the activities of daily living, and basic therapeutic care to patients of the home health agency and (b) has successfully completed a home health aide I and II training course approved by the department or a supplemental home health aide course for nursing assistants, is a graduate of a school of practical or professional nursing, or is a current nursing student who has completed a course in nursing which includes practical clinical experience in personal

care; and

(9) Personal care shall mean bathing, hair care, nail care, shaving, dressing, oral care, and similar activities.

Sec. 118. After January 1, 1989, no person shall act as a home health aide I or II unless such person:

(1) Is at least nineteen years of age;

(2) Is of good moral character;

(3) Has not been convicted of a crime under the laws of this state or another jurisdiction, the penalty for which is imprisonment for a period of more than one year and which is rationally related to the person's fitness or capacity to act as a home health aide;

(4) Is able to speak and understand the English language or the language of the home health agency patient and the home health agency staff member who acts as the home health aide's supervisor; and

(5) Meets one of the following qualifications:

(a) Has successfully completed a home health aide I training course or a home health aide II training course, or both, either prior to employment by a home health agency or within one hundred twenty days of employment by a home health agency;

(b) Is a graduate of a practical or professional school of nursing;

(c) Is a current nursing student who has completed a course in nursing which includes practical clinical experience in personal care;

(d) Has successfully completed a basic resident care course for nursing assistants approved by the department as provided in section 71-6039 and has successfully completed an additional home health aide training course approved by the department; or

(e) Has successfully completed a course in another state or jurisdiction which is the substantial equivalent of a home health aide I or home health aide II training course approved by the department.

Sec. 119. An individual who is employed by a licensed home health agency as of the operative date of this section and who, by January 1, 1989, demonstrates to the home health agency employer competency in the skills and knowledge covered in the home health aide I or home health aide II training course shall not be required to complete training courses but shall meet all other requirements set forth in section 118 of this act. The home health agency shall verify in writing to the department the competency of such individual in the

manner and method prescribed by the department.

Sec. 120. Home health aides may perform only those acts which are the subject of approved home health aide training courses and for which competency is demonstrated to a Nebraska-licensed registered nurse on behalf of the home health agency. A home health aide II may provide assistance with medication but shall not administer medication or prefill syringes with medication. Home health aides may not perform acts which require the exercise of nursing or medical judgment.

Sec. 121. After January 1, 1989, home health agencies shall employ only home health aides qualified to provide home health care pursuant to sections 116 to 130 of this act. The department shall prescribe procedures for verification by home health agencies of successful completion of the requirements of section 118 of this act. Home health agencies shall provide direction and supervision of home health aides. Home health agencies shall provide or make available to their home health aides four one-hour inservice programs per year on subjects relevant to home health care and shall verify such programs in a manner and method prescribed by the department.

Sec. 122. The home health agency shall provide supervision of home health aides by a Nebraska-licensed registered nurse. Supervision of home health aide I services shall include, at a minimum, onsite supervision once every sixty days and in-person care plan review with such home health aide I once every thirty days. Supervision of home health aide II services shall include, at a minimum, onsite supervision every two weeks. The department shall adopt and promulgate rules and regulations governing care-plan development and review by persons licensed or certified under Chapter 71, care-plan orientation, and such other requirements and procedures as the department deems necessary to protect the health and welfare of the public.

Sec. 123. After January 1, 1989, any home health aide not acting as such for a period of three years shall demonstrate competency in the tasks and duties which are the subject of home health aide training courses. The home health agency shall determine and verify competency of the home health aide in the manner and method prescribed by the department.

Sec. 124. On or before January 1, 1989, the department shall adopt and promulgate rules and regulations to implement and administer sections 116 to

130 of this act which may include, but shall not be limited to, supervision of home health aides, requirements for the approval of training courses, determinations of curricula, examination methods and scores, instructor qualifications, application procedures, reporting requirements, inservice programs, and such other rules and regulations as are necessary for the efficient administration of such sections and for the protection of the public health.

Sec. 125. (1) The department shall approve training courses for home health aides I and II and for supplemental training for those persons who have successfully completed the basic resident care course for nursing assistants as provided in section 71-6039. The department may prescribe a curriculum for such training courses, including methods and materials, examination procedures, methods, and scoring, course content, teacher qualifications, and such other requirements as the department deems necessary to protect the health and welfare of the public. The department may approve courses of training developed by associations, educational institutions, home health agencies, or other entities so long as such training courses meet the criteria prescribed by the department. Course sponsors shall make application for course approval on forms provided by the department and shall submit the application fee prescribed by the department.

(2) Training courses shall include home health aide I training, home health aide II training, and supplemental home health aide training for nursing assistants, which courses shall meet the following requirements:

(a) Home health aide I training shall consist of (i) a minimum of thirty hours of classroom training in the following subjects: Introduction of home care and home health aide services; basic skills and knowledge in home care; basic skills and knowledge in personal care; basic skills and knowledge in transfer and rehabilitation; and emergency care and first-aid skills and (ii) a competency evaluation program which requires an individual to demonstrate minimum acceptable proficiency in performing activities which are the subject of the training course;

(b) Home health aide II training shall consist of (i) a minimum of fifteen hours of classroom training in addition to the home health aide I training and shall include the following subjects: Basic skills and knowledge in observing the human body systems and functions; and basic skills and knowledge in treatments

and procedures and (ii) a competency evaluation program which requires an individual to demonstrate minimum acceptable proficiency in performing activities which are the subject of the training course; and

(c) Supplemental home health aide training for nursing assistants shall consist of a minimum of thirteen hours of classroom training in addition to successful completion of the basic resident care course for nursing assistants provided in section 71-6039. Such training shall include the following subjects: Introduction to home care and home health aide services; basic skills and knowledge in home care; and adapting basic skills and knowledge in personal care and transfer and rehabilitation techniques in the home setting. Such training shall also include a competency evaluation program which requires an individual to demonstrate minimum acceptable proficiency in performing activities which are the subject of the training course.

(3) All training courses shall be administered by a Nebraska-licensed registered nurse who shall provide written verification to the individual of successful completion of the training course.

(4) The department shall approve any changes in previously approved training courses. Course sponsors shall apply for reapproval on forms provided by the department and shall pay the application fee prescribed by the department.

Sec. 126. Applicants for course approval shall file applications with the department on forms provided by the department and shall pay the fee prescribed by the department. Fees for approval of the home health aide I training course shall be not less than two hundred fifty dollars nor more than five hundred dollars; for approval of the home health aide II training course, not less than two hundred fifty dollars nor more than five hundred dollars; for approval of the supplemental home health aide training course for nursing assistants, not less than two hundred fifty dollars nor more than five hundred dollars; and for reapproval of a course, not less than fifty dollars nor more than two hundred dollars. The department shall determine the exact fee to be charged for course approval and reapproval of a course based on the administrative costs incurred by the department. Once an application for approval for any home health aide training course has been granted by the department, reapproval shall not again be required unless such previously approved training course is changed.

Sec. 127. Each home health agency shall be

responsible for verifying in a manner and method prescribed by the department that a home health aide is competent to perform those activities which are the subject of training courses.

Sec. 128. The department may deny, suspend, or revoke approvals or reapprovals of training courses for violations of sections 116 to 130 of this act or the rules and regulations adopted and promulgated under such sections. Whenever the department determines to deny, suspend, or revoke an approval, it shall send to the applicant or approved course sponsor, by certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, or revocation shall become final thirty days after the mailing of the notice unless the applicant or approved course sponsor, within such thirty-day period, requests a hearing in writing. The applicant or approved course sponsor shall be given a hearing before the department according to the Administrative Procedure Act and the rules and regulations adopted and promulgated by the department under such act.

Sec. 129. The department may deny, suspend, or revoke licenses of home health agencies in the same manner as provided in section 71-2023 for violation of sections 116 to 130 of this act and the rules and regulations adopted and promulgated under such sections. The Attorney General may, in accordance with the laws of the state governing injunctions and other process, maintain an action in the name of the state against any person or private or public entity for such violations.

Sec. 130. Sections 116 to 130 of this act shall not apply to any volunteers working on behalf of a hospice program, as such program is defined by rules and regulations of the department, who, as part of their volunteer duties, provide home health care.

Sec. 131. That section 71-2512, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2512. Any person violating any of the provisions of sections ~~71-162~~, ~~71-1109~~, 71-2401 to 71-2405, and 71-2501 to 71-2511, except as specific penalties are ~~herein~~ otherwise imposed, shall be guilty of a Class III misdemeanor. Any person, for a second violation of any of the provisions of said such sections, wherein when another specific penalty is not expressly imposed, shall be guilty of a Class II misdemeanor.

Sec. 132. That section 71-2701, Revised Statutes Supplement, 1987, be amended to read as

follows:

71-2701- (1) For purposes the purpose of sections 71-2701 to 71-2719 132 to 138 of this act, unless the context otherwise requires:

(a) An approved massage therapy school shall be (i) one which is approved by the Department of Health upon the recommendation of the Board of Examiners in Massage Therapy, (ii) one which requires for admission a diploma from an accredited high school or its equivalent, (iii) one which has attached to its staff a regularly licensed physician and employs one or more competent massage therapists as instructors, and (iv) one which has a minimum requirement of a continuous course of study and training of not less than one thousand hours, distributed over a term of up to twelve months. Such study and training shall consist of one hundred hours of each of the following: Physiology; anatomy; massage; pathology; hydrotherapy; hygiene and practical demonstration; and health service management. The remaining three hundred hours shall be obtained in subject areas related to the clinical practice of massage therapy;

(b) Massage therapist shall mean a person licensed to practice massage therapy; (a) Persons who shall be deemed to be practicing massage are those who publicly profess to be masseurs and masseuses or who publicly profess to assume the duties incident to the practice of massage;

(b) Practice of massage is defined to be the art of body massage, either by hand or with any mechanical or electrical apparatus, for the purpose of body massaging, reducing, or contouring and the use of oil rubs, salt glows, hot and cold packs, and cabinet baths; and

(c) Massage establishment shall mean any shop, establishment, or place of business in which all or any one or more of the named subjects, as defined in subdivision (b) of this subsection, are practiced.

(2) The Department of Health shall prescribe such rules as it may deem necessary with reference to the conditions under which the practice of massage shall be carried on; and the precautions necessary to be employed, to prevent the spread of infectious and contagious diseases. The department shall have the power to enforce sections 71-2701 to 71-2719 and all necessary inspections in connection therewith.

(c) Massage therapy shall mean the physical, mechanical, or electrical manipulation of soft tissue for the therapeutic purposes of enhancing muscle

relaxation, reducing stress, improving circulation, or instilling a greater sense of well-being and may include the use of oil, salt glows, heat lamps, and hydrotherapy. It shall not include diagnosis or treatment or use of procedures for which a license to practice medicine or surgery, chiropractic, or podiatry is required nor the use of microwave diathermy, shortwave diathermy, ultrasound, transcutaneous electrical nerve stimulation, electrical stimulation of over thirty-five volts, neurological hyperstimulation, or spinal and joint adjustments; and

(d) Massage therapy establishment shall mean any duly licensed place in which a massage therapist practices his or her profession of massage therapy.

(2) The Department of Health shall adopt and promulgate rules and regulations as it may deem necessary with reference to the conditions under which the practice of massage therapy shall be carried on and the precautions necessary to be employed to prevent the spread of infectious and contagious diseases. The department shall have the power to enforce sections 132 to 138 of this act and all necessary inspections in connection therewith.

Sec. 133. That section 71-2702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2702- Subsection (1) of section 71-2701 Section 132 of this act shall not be construed to include the following classes of persons: (1) Licensed physicians and surgeons, osteopaths, chiropractors, registered nurses, practical nurses, cosmetologists, chiropodists, physical therapists, and barbers who are exclusively engaged in the practice of their respective professions; and (2) physicians of the United States Army, Navy, or public health service when acting in the line of duty in this state.

Sec. 134. All records, files, and other information kept with the Board of Examiners in Massage shall be transferred to the Board of Examiners in Massage Therapy on August 1, 1988.

Sec. 135. That section 71-2705, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2705- Every applicant for a an initial license to practice massage therapy shall (1) present satisfactory evidence that he or she is a resident of this state and has attained the age of nineteen years and is of good moral character, (2) present proof of graduation from an approved school of massage therapy

school, and (3) pass an examination prescribed by the Board of Examiners in Massage Therapy.

Sec. 136. Any person serving an apprenticeship to engage in the practice of massage as provided by law in effect immediately prior to August 1, 1988, may complete his or her apprenticeship subject to the conditions required by such law.

On August 1, 1988, any masseur or masseuse under whom an apprenticeship is being served pursuant to law in effect immediately prior to such date shall be subject to all conditions and restrictions which existed immediately prior to such date.

Sec. 137. That section 71-2712, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2712- (1) After November 30, 1957 August 1, 1988, no person shall engage in the practice of massage therapy or the operation of a massage therapy school or establishment, as defined in sections 71-2701 to 71-2719, unless he or she obtains shall have obtained a license from the Department of Health department for that purpose.

(2) Any license issued under the provisions of law in effect immediately prior to August 1, 1988, for either a person to engage in the practice of massage or the operation of a massage school or establishment shall be valid until November 1, 1989, and shall be deemed a license to practice as a massage therapist or to operate a massage therapy school or establishment respectively.

(3) Commencing in November 1989 and in November of each odd-numbered year thereafter, all license holders shall apply for renewal of such license pursuant to the Uniform Licensing Law.

(4) Commencing in 1988, each Nebraska-licensed massage therapist in active practice within the State of Nebraska shall be required to complete eighteen hours of continuing education every two years in accordance with sections 71-161.09 and 71-161.10 as a condition for licensure.

Sec. 138. The Massage Therapy Fund is hereby created. All money in the fund shall be used exclusively by the Bureau of Examining Boards to carry out the statutory and regulatory duties pertaining to the practice of massage therapy. The State Treasurer shall credit to the Massage Therapy Fund, on or after the operative date of this section, all certification and renewal fees for the practice of massage therapy remitted to the state treasury by the department pursuant to section 71-162 except such amounts

distributed pursuant to sections 33-150 and 71-6228. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 139. That section 71-2802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2802. Sections 71-2801 to 71-2804 shall not be construed to include the following classes of persons:

(1) Licensed physicians and surgeons, chiropractists, dentists, chiropractors, osteopaths, ~~masseurs or masseuses or~~ massage therapists, who are exclusively engaged in the practice of their respective professions; or

(2) Physicians and surgeons of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state.

Sec. 140. That section 71-2803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2803. Every applicant for a license to practice physical therapy shall:

(1) Present proof of having completed a four-year course in an accredited high school or its equivalent;

(2) Present proof of graduation from an accredited school or college of physical therapy completion of an approved educational program as defined in section 71-2804; and

(3) In the case of an applicant who has been trained as a physical therapist in a foreign country, (a) present documentation of completion of a course of professional instruction substantially equivalent to an approved program accredited by the American Physical Therapy Association or by an equivalent accrediting agency as determined by the Board of Examiners in Physical Therapy and (b) present proof of proficiency in the English language; and

(4) Except as provided in section 71-2805, pass successfully complete an examination prescribed approved by the Board of Examiners in Physical Therapy in subjects of anatomy, electrotherapy, hydrotherapy, massage, pathology, physiology, therapeutic exercise, and hygiene department on the recommendation of the Board of Examiners in Physical Therapy.

Sec. 141. That section 71-2803.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2803.01. A temporary license to practice physical therapy may be granted to persons who establish residence in Nebraska and who meet all the requirements for a license except passage of the examination required by section 71-2803. Such temporary license shall be valid only until the next such examination results of the next examination are available to the department. In the event a temporary licensee fails the examination required by section 71-2803, the Director of Health, upon recommendation of the Board of Examiners in Physical Therapy, may suspend or extend such licensee's temporary license until such licensee does pass such examination. The fee to be paid and procedures the department shall establish and collect a fee of not less than ten dollars nor more than fifty dollars for issuance or extension of a temporary license. The department shall have the power to deny, revoke, limit, suspend, or otherwise discipline a temporary license to practice physical therapy upon the grounds and in accordance with sections 71-147 to 71-161.19, for the denial, suspension or revocation of such a temporary license shall be the same as for a license, except that the fee paid shall equal the renewal fee rather than the initial fee for a license.

Sec. 142. That section 71-2804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2804. Accredited school of physical therapy, which in the meaning of sections 71-2801 to 71-2804, shall be one which is approved by the Department of Health upon the recommendation of the board of examiners. For purposes of sections 71-2803 to 71-2822, approved educational program shall mean a program of physical therapy or physical therapist assistant education and training approved by the Board of Examiners in Physical Therapy. Such approval may be based on the program's accreditation by the American Physical Therapy Association or by equivalent standards established by the board.

Sec. 143. That section 71-2807, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2807. The Board of Examiners in Physical Therapy shall, with the approval of the department, adopt and promulgate ~~adopt~~ such rules and regulations as shall be necessary for the performance of its duties under sections 71-2801 to 71-2805. Such rules and regulations shall be subject to approval by the Department of Health and shall not be applicable to

persons not having a license to practice physical therapy administration of sections 71-2801 to 71-2822. Such rules and regulations shall include, but not be limited to, a definition for onsite supervision of a physical therapist assistant and the proper utilization of such assistant by a physical therapist and what constitutes an emergency not requiring onsite supervision of a licensed physical therapist.

Sec. 144. That section 71-2814, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2814. The board shall formulate guidelines for the consideration of applications by a licensed physical therapist to supervise physical therapist assistants. The board, whenever necessary for the protection of public health and safety, may require such information from the physical therapist as is necessary to determine that the physical therapist assistant will be properly utilized and supervised. (1) The department, upon recommendation of the board, shall approve an application submitted by a physical therapist for supervision of a physical therapist assistant when:

- (a) The physical therapist assistant is a graduate of an approved program;
- (b) The physical therapist has a valid Nebraska license; and
- (c) The physical therapist practices in Nebraska.

(2) Any physical therapist seeking approval for supervision of a physical therapist assistant shall submit an application which is signed by the physical therapist assistant and the physical therapist with whom he or she is associated. Such application shall (a) identify the settings within which the physical therapist assistant is authorized to practice and (b) describe the agreed-upon physical therapy functions that the physical therapist assistant may perform as provided in section 71-2810.

Sec. 145. That section 71-3710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3710. (1) The board shall prescribe and provide an application form for the use of all applicants. Applicants for registration as sanitarians shall submit a fee of ten dollars, and applicants for registration as sanitarians-in-training shall submit a fee of five dollars at the time of making application for registration. Such fee shall not be refundable. The board may also assess an additional fee for the cost

of the examination when necessary.

A sanitarian registered under sections 71-3701 to 71-3715 may renew his or her certificate by paying the board a biennial renewal fee of not less than thirty dollars nor more than two hundred fifty dollars as the board shall direct. Such fee shall be due and payable on or before January 1, 1987, and on January 1 of each odd-numbered year for which a renewal certificate shall be issued. All certificates shall expire on December 31 of each even-numbered year. Registrations which have expired for failure to pay renewal fees may be reinstated under the rules and regulations adopted by the board. Procedures for renewal shall be in accordance with section 71-110.

In no case shall registration for a sanitarian-in-training exceed a two-year period.

(2) Each registered sanitarian or sanitarian-in-training in active practice in the state shall be required on or before December 31 of each even-numbered year to attend twenty-four hours biennially of such approved scientific schools, clinics, forums, lectures, or sanitarian educational seminars, as may be announced and approved by the Director of the Bureau of Examining Boards under direction from the board, as a prerequisite for the registrant's next subsequent biennial certificate of registration renewal. At least twelve hours of such educational program shall be conducted annually within the State of Nebraska.

Each registered sanitarian and sanitarian-in-training in active practice within the State of Nebraska shall, on or before December 31 of each even-numbered year, certify to the Director of the Bureau of Examining Boards that he or she has complied with this subsection during the preceding two-year period. The Director of the Bureau of Examining Boards shall, on or before December 31 of each even-numbered year, report all registrants who have complied with the educational requirements to the board. Any registrant who has not complied with such requirements shall not be issued a renewal certificate of registration, except if he or she is exempt as provided in subsection (3) of this section. Procedures for denial of renewal of the certificate of registration of such registrants shall be identical to those for nonpayment of renewal fees as provided in sections 71-110 and 71-149.

(3) A registrant shall be exempt from the requirements of subsection (2) of this section if he or she:

- (a) Holds a Nebraska certificate of

registration but is not practicing as a registered sanitarian or registered sanitarian-in-training in Nebraska;

(b) Serves in the regular armed forces of the United States during any part of the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(c) Attends a college, university, or other institution of higher education for a residence period of time in excess of eight months during any part of the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(d) Submits proof that he or she was suffering from a serious or disabling illness or physical disability which prevented his or her attendance at any qualified educational seminar within the State of Nebraska during the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(e) Had first registered within the twenty-four months immediately preceding the biennial certificate of registration renewal date; or

(f) Is a registered sanitarian in good standing with the board and who has completely retired from the active practice of environmental sanitation.

Sec. 146. That section 71-3711, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3711. The board shall have the power to suspend or revoke, after due notice and proper hearing, a certificate of registration when the holder is found guilty of unprofessional conduct, the practice of fraud or deceit in obtaining a certificate of registration, dereliction of duty, incompetence in the practice of sanitation, or for other good and sufficient cause. Notice of hearing in writing shall be given not less than ten days prior to the date of the hearing, designating the time and place of hearing and providing the certificate holder with a copy of the charges against him. The person charged shall be entitled to be represented at the hearing and present evidence in his defense. Every order of the board causing the suspension or revocation of a certificate of registration shall be predicated on findings based upon the record of hearing, and the determination of the board may be reviewed by a court only to determine whether the board abused its discretion or exceeded its jurisdiction. Disciplinary actions and proceedings shall be carried out in accordance with sections 71-147

to 71-161.19.

Sec. 147. That section 71-3712, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3712. Agreements for reciprocity with these states having an act for the registration of sanitarians, whose provisions are equivalent to those of sections 71-3701 to 71-3715, may be entered into by the board under such appropriate rules and regulations as may be prescribed by the board. The procedures and requirements for a reciprocal registration with other states shall be in accordance with sections 71-139 to 71-145.

Sec. 148. That section 71-4701, Revised Statutes Supplement, 1987, be amended to read as follows:

71-4701. As used in sections 71-4701 to 71-4719 and sections 152 and 159 of this act, unless the context otherwise requires:

- (1) Department shall mean the Department of Health;
- (2) License shall mean a license issued by the state under such sections 71-4701 to 71-4719 to hearing aid instrument dispensers and fitters;
- (3) Temporary permit license shall mean a permit license issued while the applicant is in training to become a licensed hearing aid instrument dispenser and fitter;
- (4) Board shall mean the Board of Hearing Aid Instrument Dispensers and Fitters;
- (5) Hearing aid shall mean any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories, including earmold, but excluding batteries and cords. A hearing aid shall also be known as a hearing instrument;
- (6) Practice of fitting hearing aids shall mean the measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations, or sale of hearing aids. The term also includes the making of impressions for earmolds. A dispenser, at the request of a physician or a member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing; and
- (7) Sell, sale, or dispense shall mean any transfer of title or of the right to use by lease, bailment, or any other contract, excluding (a) wholesale

transactions with distributors or dispensers and (b) distribution of hearing aids by nonprofit service organizations at no cost to the recipient for the hearing aid.

Sec. 149. That section 71-4702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4702. (1) No person shall engage in the sale of or practice of fitting hearing aids or display a sign or in any other way advertise or represent himself or herself as a person who practices the fitting and sale or dispensing of hearing aids unless he or she holds an unsuspended, unrevoked license issued by the department as provided in sections 71-4701 to 71-4719 and sections 152 and 159 of this act. The license shall be conspicuously posted in his or her office or place of business. Duplicate licenses shall be issued by the department to valid license holders operating more than one office, without additional payment. A license issued under sections 71-4701 to 71-4719 shall confer upon the holder the right to select, fit, and sell hearing aids.

(2) Nothing in such sections 71-4701 to 71-4719 shall prohibit a corporation, partnership, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license if it employs only properly licensed natural persons in the direct sale and fitting of such products. Such corporations, partnerships, trusts, associations, or other like organizations shall file annually with the board a list of all licensed hearing aid instrument dispensers and fitters directly or indirectly employed by it. Such organizations shall also file with the board a statement on a form approved by the board that they submit themselves to the rules and regulations of the department and the provisions of such sections 71-4701 to 71-4719 which the department shall deem deems applicable to them.

(3) Nothing in such sections 71-4701 to 71-4719 shall prohibit the holder of a license from the fitting and sale of wearable instruments or devices designed for or offered for the purpose of conservation or protection of hearing.

Sec. 150. That section 71-4704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4704. (1) Sections 71-4701 to 71-4719 and

sections 152 and 159 of this act are not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids if such person or organization employing such person does not sell hearing aids or accessories thereto.

(2) Sections 71-4701 to 71-4719 ~~do~~ Such sections shall not apply to a person who is a physician licensed to practice in this state, except that such physician shall not delegate the authority to fit and dispense hearing aids unless the person to whom the authority is delegated is licensed under such sections, 71-4701 to 71-4719.

Sec. 151. That section 71-4706, Revised Statutes Supplement, 1987, be amended to read as follows:

71-4706. (1) Application for a license under sections 71-4701 to 71-4719 and sections 152 and 159 of this act shall be made to the department on forms prescribed by the department and shall be accompanied by a fee of fifty to two hundred dollars as determined by the board the fee specified in section 159 of this act. The department shall, without discrimination, issue a license to any person who passes an examination provided for in section 71-4707. The license shall be effective until December 31 of the next even-numbered year, in which issued.

(2) Whenever the board determines that another state or jurisdiction has requirements equivalent to ~~or higher than~~ those in effect pursuant to sections 71-4701 to 71-4719 and sections 152 and 159 of this act and that such state or jurisdiction has a program equivalent to ~~or stricter than~~ the program for determining whether applicants pursuant to such sections 71-4701 to 71-4719 are qualified to fit and sell hearing aids, the department may issue certificates of endorsement licenses to applicants who hold current, unsuspended, and unrevoked certificates or licenses to fit and sell hearing aids in such other state or jurisdiction. No such applicants for certificate of endorsement licensure shall be required to submit to or undergo a qualifying examination if his or her certificate or license is based upon a written examination equivalent to the Nebraska examination. ~~but shall be required to pay fees pursuant to sections 71-4706 and 71-4711.~~ The holder of a certificate of endorsement shall be registered in the same manner as licensees. The fee for an initial certificate of endorsement shall be the same as the fee for an initial license. Fees; grounds for

renewal, and procedures for the suspension and revocation of certificates of endorsement shall be the same as for renewal, suspension, and revocation of a license.

Sec. 152. Every hearing aid instrument dispenser and fitter who is licensed to practice in Nebraska and is in active practice in this state shall be required to complete twenty-four hours of continuing education in the same manner as provided in sections 71-161.09 and 71-161.10 as a condition for biennial renewal.

Sec. 153. That section 71-4707, Revised Statutes Supplement, 1987, be amended to read as follows:

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

- (a) Is at least twenty-one years of age;
- (b) Is of good moral character;
- (c) Has an education equivalent to a four-year course in an accredited high school; and
- (d) Is free of contagious or infectious disease.

(2) Each applicant for license by examination shall appear at a time and place and before such persons as the department may designate to be examined by means of written and practical tests in order to demonstrate that he or she is qualified to practice the fitting and sale of hearing aids. ~~The applicant shall pay an examination fee of fifty to two hundred dollars as determined by the board.~~ The examination shall not be conducted in such a manner that college training is required in order to pass. Nothing in this examination shall imply that the applicant is required to possess the degree of medical competence normally expected of physicians.

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

Sec. 154. That section 71-4708, Revised Statutes Supplement, 1987, be amended to read as follows:

71-4708. (1) An applicant who fulfills the requirements regarding age, character, education, and health as set forth in subsection (1) of section 71-4707 may obtain a temporary permit upon application to the department. The department upon recommendation of the board shall issue a temporary license to any person who has met the requirements for licensure pursuant to

subsection (1) of section 71-4707. Previous experience or a waiting period shall not be required to obtain a temporary permit license.

(2) Upon receiving an application as provided under this section and accompanied by a fee of fifty to two hundred dollars as determined by the board, the department shall issue a temporary permit which shall entitle the applicant to engage in the fitting and sale of hearing aids for a period of one year. Any person who desires a temporary license shall make application to the department. Such application shall be accompanied by the fee provided for in section 159 of this act. The temporary license shall be issued for a period of one year. A person holding a valid license shall be responsible for the supervision and training of such applicant and shall maintain adequate personal contact with him or her.

(3) If a person who holds a temporary permit license under this section has not successfully passed the licensing examination within twelve months of the date of issuance of the temporary permit license, the temporary permit license may be renewed or reissued once upon payment of a fee of fifty to two hundred dollars as determined by the board for a twelve-month period upon payment of the fee specified in section 159 of this act. In no case may a temporary license be renewed or reissued more than once. A renewal or reissuance may take place any time after the expiration of the first twelve-month period.

(4) The department shall have the power to deny, revoke, limit, suspend, or otherwise discipline a temporary license upon the grounds and in accordance with sections 71-147 to 71-161.19.

Sec. 155. That section 71-4710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4710. (1) A person who holds a license under sections 71-4701 to 71-4719 and sections 152 and 159 of this act shall notify the department in writing of the regular address of the place or places where he or she engages or intends to engage in the fitting or the sale of hearing aids.

(2) The department shall keep a record of the place of business of licensees.

(3) Any notice required to be given by the department to a person who holds a license shall be mailed to him or her by certified mail at the address of the last place of business of which he or she has notified the department.

Sec. 156. That section 71-4711, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4711. Each person who engages in the fitting and sale of hearing aids shall biennially pay to the department a fee of sixty to two hundred fifty dollars as determined by the board for a renewal of his or her license and shall keep such license conspicuously posted in his or her office or place of business at all times. When more than one office is operated by the licensee, duplicate licenses shall be issued by the department for posting in each location. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal if such renewal application is made within two years from the date of such expiration. Licenses issued pursuant to sections 71-4701 to 71-4719 and sections 152 and 159 of this act shall be subject to biennial renewal and shall expire December 31 of each even-numbered year in accordance with section 71-110.

Sec. 157. That section 71-4712, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4712. (1) Any person wishing to make a complaint against a licensee under sections 71-4701 to 71-4719 shall reduce the same to writing and file his or her complaint with the department within one year from the date of the action upon which the complaint is based. If the department determines that the charges made in the complaint are sufficient to warrant a hearing to determine whether the license issued under sections 71-4701 to 71-4719 shall be suspended or revoked, it shall make an order fixing a time and place for a hearing and require the licensee complained against to appear and defend against the complaint. The order shall have attached thereto a copy of the complaint. The order and copy of the complaint shall be served upon the licensee at least twenty days before the date set for hearing either personally or by certified mail sent to the licensee's last-known address. Continuances or adjournment of the hearing date shall be made if for good cause. At the hearing the licensee complained against may be represented by counsel. The licensee complained against and the department shall have the right to take depositions in advance of the hearing and after service of the complaint, and either may compel the attendance of witnesses by subpoenas issued by the department. Either party taking depositions shall give at least five days' written

notice to the other party of the time and place of such depositions; and the other party shall have the right to attend, with counsel if desired, and cross-examine. Appeals from suspension or revocation may be made as provided by the Administrative Procedure Act.

(2) Any person licensed under sections 71-4701 to 71-4719 may have his or her license revoked or suspended for a fixed period by the department for any of the following causes:

(a) The conviction of a felony, or a misdemeanor involving moral turpitude. The record of conviction, or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had shall be conclusive evidence of such conviction.

(b) Procuring of his or her license by fraud or deceit practiced upon the department, or

(c) Unethical conduct, including:

(i) The obtaining of any fee or the making of any sale by fraud or misrepresentation,

(ii) Knowingly employing directly or indirectly any suspended or unlicensed person to perform any work covered by sections 71-4701 to 71-4719,

(iii) Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceptive, or untruthful,

(iv) Advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type, when it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised,

(v) Representing that the services or advice of a person licensed to practice medicine or one certified as an audiologist by the American Speech and Hearing Association will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, or using the words doctor, clinic, clinical audiologist, audiologist, state-licensed clinic, state registered, state certified, state approved, or any other term, abbreviation, or symbol, or wearing any costume when it would falsely give the impression that one is being treated medically or that the licensee's service has been recommended by the state, except that it shall not

be unethical or illegal to use the words (A) hearing aid specialist or (B) hearing instrument specialist if such title is granted by a national association; (1) The department shall have the power to deny, revoke, suspend, or otherwise discipline any license to practice as a hearing aid instrument dispenser and fitter issued by the department or applied for pursuant to section 71-4707 when the applicant or licensee commits or is convicted of any of the acts or offenses set out in sections 71-147 and 71-148 or the following acts or offenses:

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

(vii) Habitual intemperance;

(viii) Gross immorality;

(ix) Permitting another to use his or her

license;

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

(xi) Advertising a manufacturer's product or using a manufacturer's name or trademark which implies a relationship with the manufacturer that does not exist;

(xii) Directly or indirectly giving or offering to give, or permitting or causing to be given money or anything of value to any person who advises another in a professional capacity as an inducement to influence him or her or have him or her influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid instrument dispenser or fitter, or influencing persons to refrain from dealing in the products of competitors;

(c) (xiii) Conducting business while suffering from a contagious or infectious disease; or

(xiv) Engaging in the fitting and sale of hearing aids under a false name or alias with fraudulent intent;

(xv) Gross incompetence or negligence in fitting and selling hearing aids; or

(d) (xvi) Violating any provision of sections 71-4701 to 71-4719 and sections 152 and 159 of this act.

(2) The department shall discipline a license in accordance with sections 71-149 to 71-161.19.

Sec. 158. That section 71-4714, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4714. The powers and duties of the department are as follows:

(1) To authorize all disbursements necessary to carry out sections 71-4701 to 71-4719 and sections 152 and 159 of this act;

(2) To supervise issuance of licenses based on experience and administer qualifying examinations to test the knowledge and proficiency of applicants seeking to be licensed by examination;

(3) To ~~register~~ license persons who apply to the department and who are qualified to engage in the fitting and selling of hearing aids;

(4) To issue and renew licenses;

(5) To suspend or revoke licenses;

(6) To designate the time and place for examining applicants;

(7) To appoint representatives to conduct or supervise the examination;

(8) To adopt and promulgate rules and regulations which shall set the passing score for examinations upon the recommendation of the board;

(9) To ~~make and publish~~ adopt and promulgate rules and regulations not inconsistent with the laws of this state which are necessary to carry out such sections; 71-4701 to 71-4719; and

(10) ~~(9)~~ To appoint or employ subordinate employees.

Sec. 159. (1) The department, upon the recommendation of the board, shall determine the fees to be charged based on the administrative costs incurred by the board and subject to the following:

(a) Not less than fifty dollars nor more than two hundred dollars for a license issued on the basis of an examination given by this state or on the basis of a license granted by another state or territory to practice as a hearing aid instrument dispenser and fitter;

(b) Not less than fifty dollars nor more than two hundred fifty dollars for a biennial renewal of a license to practice as a hearing aid instrument dispenser and fitter;

(c) Not less than fifty dollars nor more than two hundred dollars for a temporary license as a hearing aid instrument dispenser and fitter;

(d) Not less than fifty dollars nor more than two hundred dollars for renewal of a temporary license;

and

(e) For a certified statement that a licensee is licensed in this state, a fee of five dollars, and for verification that a licensee is licensed in this state, a fee of two dollars.

(2) Any applicant whose application is rejected by the department or withdrawn by the applicant shall be allowed the return of his or her fee except for an administrative fee of twenty-five dollars to be retained by the department.

Sec. 160. That section 71-4715, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4715. (1) There is hereby established a Board of Hearing Aid Instrument Dispensers and Fitters which shall guide, advise, and make recommendations to the department.

(2) Members of the board shall be residents of the state. The board shall consist of three hearing aid instrument dispensers and fitters, one otolaryngologist, and one audiologist. Each hearing aid instrument dispenser and fitter on the board shall have not less than five years of experience and shall hold a valid license.

(3) All members of such board shall be appointed by the Governor. The term of office of each member shall be for four years, excepting that of the members of the first board appointed under sections 71-4701 to 71-4719 and sections 152 and 159 of this act, two shall be appointed for two years, two shall be appointed for three years, and one shall be appointed for four years. Before a member's term expires, the Governor shall appoint a successor to take office on the expiration of his or her term. A vacancy in the office of a member shall be filled by appointment for the unexpired term. The members of the board shall annually designate one member to serve as chairperson and another to serve as secretary-treasurer.

No member of the board who has served two or more full terms may be reappointed to the board until at least one year after the expiration of his or her most recent full term of office.

(4) Members of the board shall receive for each day actually engaged in the duties of the office a per diem amount of twenty-five dollars, not to exceed the sum of one thousand dollars per year, and reimbursement for actual and necessary travel and other expenses, as provided in sections 81-1174 to 81-1177 for state employees, such remuneration and reimbursement to

be paid from appropriations made for this purpose.

Sec. 161. That section 71-4716, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4716. (1) The board shall advise the department in all matters relating to sections 71-4701 to 71-4719 and sections 152 and 159 of this act, shall prepare the examinations required by such sections 71-4701 to 71-4719 for the department, and shall by a vote of four-fifths recommend licensure, and shall assist the department in carrying out the provisions of such sections. 71-4701 to 71-4719.

(2) The department shall be guided by the recommendations of the board in all matters relating to such sections. 71-4701 to 71-4719.

Sec. 162. That section 71-4718, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4718. On or before the tenth day of each month, the department shall pay into the state treasury all money received by the department under sections 71-4701 to 71-4719 and sections 152 and 159 of this act during the preceding calendar month. The State Treasurer shall credit the money to the Hearing Aid Fund which is hereby created. Such fund shall be expended solely for administering and enforcing the provisions of such sections. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269. 71-4701 to 71-4719.

Sec. 163. That section 71-4719, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4719. Any person violating the provisions of sections 71-4701 to 71-4719 and sections 152 and 159 of this act shall be guilty of a Class III misdemeanor, and the license of any person so convicted shall be automatically revoked.

Sec. 164. That section 71-5101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5101. The Legislature finds:

(1) That ambulance, rescue, prehospital emergency care, and basic life support services are service is a primary and essential health care service services and that the presence of an adequately equipped ambulance and trained ambulance, rescue, prehospital emergency care, and basic life support personnel may be the difference between life and death or permanent

disability to those persons in Nebraska making use of ambulance such services in an emergency;

(2) That an effective emergency medical services system may be assisted by a program of training and certification of ambulance, rescue, prehospital emergency care, and basic life support personnel and licensure of ambulance, rescue, prehospital emergency care, and basic life support services approved by the board; and

(3) That sections 60-337 and 71-5101 to 71-5123 are essential to aid in the advancement in the quality of care being provided by emergency medical services in the State of Nebraska.

Sec. 165. That section 71-5102, Revised Statutes Supplement, 1987, be amended to read as follows:

71-5102. As used in sections 60-337 and 71-5101 to 71-5123, unless the context otherwise requires:

(1) Ambulance or rescue service unit shall mean any privately or publicly owned motor vehicle that is especially designed, constructed or modified, and equipped and is intended to be used for and is maintained or operated for the overland transportation of patients upon the streets, roads, highways, or public ways in this state, including funeral coaches or hearses, or any other motor vehicles used for such purposes, but shall not include or mean any motor vehicle owned or operated under the direct control of an agency of the United States government;

(2) Ambulance attendant shall mean an individual trained or qualified to provide for, or any other individual who provides for, the care of patients while such patients are being transported in an ambulance;

(3) Automatic defibrillator shall mean a monitor or device capable of rhythm analysis which will charge and deliver a shock after electronically detecting the presence of ventricular fibrillation or rapid ventricular tachycardia;

(4) Basic life support shall mean those acts ordinarily performed after training by emergency medical technicians not specifically preempted and separately licensed under the Emergency Medical Technician-Paramedic Act;

~~(3)~~ (5) Board shall mean the Board of Ambulance Advisors;

~~(4)~~ (6) Certified ambulance attendant shall mean any individual fulfilling the requirements of

section 71-5109 and shall include an emergency medical technician-ambulance meeting such requirements regardless of whether such emergency medical technician-ambulance is a member of a transporting ambulance service or a rescue squad service;

(5) (7) Department shall mean the Department of Health;

(8) Emergency medical technician-A shall mean a prehospital emergency care provider trained and certified to that level of basic life support prescribed in subsection (2) of section 71-5109 and for such other skills as determined by the department;

(9) Emergency medical technician A/D shall mean an emergency medical technician-A who has been additionally trained, tested, and certified in the use and operation of automatic or semiautomatic defibrillators pursuant to department rules and regulations;

(6) (10) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated; and

(7) (11) Person shall mean an individual, firm, partnership, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity and shall include any trustee, receiver, assignee, or other legal representative thereof but shall not include any agency of the United States government; and

(12) Semiautomatic defibrillator shall mean a monitor or device which is capable of electronically detecting a ventricular fibrillation and rapid ventricular tachycardia but requires user interaction in order to deliver a shock.

Sec. 166. That section 71-5110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5110. The department, with the approval of the board, shall adopt, promulgate, and enforce, by rules and regulations, minimum basic standards governing the required training of ambulance attendants, emergency medical technicians-A, and emergency medical technicians-A/D who are members of organizations providing ambulance, rescue, or prehospital emergency care services and the scope of their practice in basic life support.

Sec. 167. That section 71-5111, Revised Statutes Supplement, 1987, be amended to read as follows:

71-5111. No certified ambulance attendant,

emergency medical technician-A, emergency medical technician-A/D, registered nurse, or licensed practical nurse who provides public emergency care, ambulance service, or rescue service shall be liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of his or her rendering in good faith any such service. Nothing in this section shall be deemed to grant any such immunity for liability arising out of the operation of any motor vehicle, aircraft, or boat or while the certified ambulance attendant such person was impaired by alcoholic liquor or any controlled substance enumerated in section 28-405, in connection with such service, nor shall immunity apply to any person causing damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission.

Sec. 168. That section 71-5113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5113. (1) The department shall issue licenses for the operation of ambulances to be used for the transportation of patients and rescue personnel which and shall issue certificates for basic life support personnel of the various levels of training and skills who, ~~which~~ are found to comply with the rules, regulations, and standards as are lawfully adopted and promulgated by the department with the approval of the board. The department shall deny, refuse renewal of, suspend, or revoke licenses or certificates for any of the following grounds:

(a) Violation of any of the provisions of the rules, regulations, and standards lawfully adopted and promulgated;

(b) Permitting, aiding, or abetting the commission of any unlawful act; or

(c) Conduct or practices detrimental to the health or safety of patients transported in an ambulance, or to members of the general public during a period of such transportation or while providing rescue or prehospital emergency care service.

(2) If there is a determination to deny, refuse renewal of, suspend, or revoke a license issued pursuant to sections ~~60-337~~ and 71-5101 to 71-5123, the department shall send to the applicant or licensee, by either registered or certified mail, a notice setting forth the specific reasons for the determination. The denial, refusal of renewal, suspension, or revocation shall become final thirty days after the mailing of the notice unless the applicant or licensee, within such

thirty-day period, ~~shall give~~ gives written notice of a desire for a hearing. Upon receipt of such notice, the applicant or licensee shall be given a formal hearing before the department and the board and shall have the right to present evidence on his or her own behalf. On the basis of the evidence presented, the determination involved shall be affirmed or set aside by the department, and a copy of such decision setting forth the findings of facts and the specific reasons upon which it is based shall be sent by either registered or certified mail to the applicant or licensee. The decision shall become final thirty days after a copy thereof is mailed unless the applicant or licensee, within such thirty-day period, appeals the decision pursuant to the Administrative Procedure Act.

Sec. 169. That section 71-5407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5407. (1) In addition to any other penalties provided by law, any person who ~~shall violate~~ violates the provisions of ~~sections section 71-1,147.10 and 71-5401 to 71-5408~~ or the Nebraska Drug Product Selection Act or any rule or regulation adopted and promulgated under ~~sections 71-1,147-10 and 71-5401 to 71-5408~~ such section or act shall, upon conviction thereof, be punished by a fine of not more than two hundred fifty dollars for each violation.

(2) It shall be unlawful for any employer or such an employer's agent to coerce a pharmacist to dispense a prescription drug against the professional judgment of the pharmacist or as ordered by the prescribing medical practitioner.

(3) Violation of ~~the provisions of sections 71-5401 to 71-5408~~ the act or commission of any act described in ~~subdivisions (1) to (9)~~ subsection (1) of section 71-1,147.10 by a licensed pharmacist shall be considered an act of unprofessional conduct for purposes of section 71-147 and shall subject the pharmacist to disciplinary action under section 71-147.

Sec. 170. That section 71-5502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5502. As used in the Emergency Medical Technician-Paramedic Act, unless the context otherwise requires:

(1) Approved licensed physician shall mean an individual who:

(a) Is licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107, or

osteopathic medicine and surgery pursuant to sections 71-1,137 to 71-1,141;

(b) Is qualified and knowledgeable in the management of emergency care and services; and

(c) After January 1, 1984, is currently certified in advanced cardiac life support by the American Heart Association;

(2) Approved training program shall mean a program for the education and training of a certified advanced emergency medical technician-I, certified advanced emergency medical technician-II, certified emergency medical technician-paramedic, or certified emergency medical technician-D; which the Board of Advanced Emergency Medical Care and the Department of Health approve;

(3) Board shall mean the Board of Advanced Emergency Medical Care;

(4) Department shall mean the Department of Health;

(5) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(6) Person shall mean an individual, firm, partnership, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity, and shall include any trustee, receiver, assignee, or other legal representative thereof, but shall not include any agency of the United States Government;

(7) Physician shall mean an individual licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107; or osteopathic medicine and surgery pursuant to sections 71-1,137 to 71-1,141;

(8) Approved physician surrogate shall mean a qualified, trained medical person, such as a registered nurse or physician's assistant, designated by an approved licensed physician in writing to act as a substitute for the physician in directing the actions of a certified advanced emergency medical technician-I, certified advanced emergency medical technician-II, certified emergency medical technician-paramedic, or certified emergency medical technician-D; and approved as such by the board;

(9) Certified advanced emergency medical technician-I shall mean a person who:

(a) Renders emergency care, rescue, and resuscitation services;

(b) Meets all the requirements for certification as a duly certified ambulance attendant

pursuant to sections 71-5109 and 71-5110;

(c) Is trained in an approved training program to administer intravenous solutions and perform endotracheal airway management and other authorized aids to ventilation, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during both training and after certification; and

(d) Has been examined and certified as a certified advanced emergency medical technician-I by the board and the department;

(10) Certified advanced emergency medical technician-II shall mean a person who:

(a) Renders emergency care, rescue, and resuscitation services;

(b) Meets the requirements of subdivisions (9)(b) and (9)(c) of this section;

(c) Is trained in an approved program to provide advanced cardiac life support, to administer drugs under written or oral authorization of an approved licensed physician, and to perform any of the procedures described in subsection (1) of section 71-5520 under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during both training and after certification; and

(d) Has been examined and certified as a certified advanced emergency medical technician-II by the board and the department;

(11) Certified emergency medical technician-paramedic shall mean a person who:

(a) Meets the requirements of subdivisions (10)(a) to (10)(c) of this section;

(b) Is trained in an approved training program to provide advanced cardiac life support, to administer drugs under written or oral authorization of an approved licensed physician, and to perform any of the procedures described in subsection (2) of section 71-5520, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during both training and after certification; and

(c) Has been examined and certified as a certified emergency medical technician-paramedic by the board and the department;

(12) Certified emergency medical technician-D shall mean a person who:

(a) Renders emergency care, rescue, and resuscitation services;

(b) Meets all the requirements for certification as a duly certified ambulance attendant pursuant to sections 71-5109 and 71-5110;

(c) Is trained in an approved training program to manually determine the need for and administer cardiac electrical countershock in the treatment of ventricular fibrillation, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during both training and after certification; and

(d) Has been examined and certified as a certified emergency medical technician-D by the board and the department;

(13) Trainee shall mean any person who is currently enrolled in an approved training program for advanced emergency medical technician-I, advanced emergency medical technician-II, emergency medical technician-paramedic, or emergency medical technician-D and certified as a trainee by the board and the department;

(14) Certified field supervisor shall mean any certified emergency medical technician-paramedic, advanced emergency technician-I, advanced emergency technician-II, registered nurse, physician's assistant, or approved licensed physician, employed by or acting as an agent of an approved training program, who supervises trainees in an approved training program and who has been certified as a field supervisor by the board and the department by virtue of having met all requirements established by the board for such certification; and

(15) Approved service program shall mean an organized emergency medical response or transportation unit, or both, which utilizes the services of persons certified as certified advanced emergency medical technicians-I, certified advanced emergency medical technicians-II, certified emergency medical technician-paramedics, or certified emergency medical technicians-D and which has been approved as such by the board and the department. Approved service program shall include military emergency services operating in cooperation with surrounding communities.

Sec. 171. That section 71-5508, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5508. (1) Any fire department, rescue ~~squad~~ service, ambulance service, or nonprofit corporation organized to perform any of these services; or any hospital or combination of hospitals or other medical facility licensed by the department; may apply

to the department for certification as an approved service program. Such application shall be submitted by an approved licensed physician who has been designated by the medical director of the proposed service program, but such physician shall not be liable nor responsible for the actions of the service program, or personnel thereof, except as set forth in rules and regulations governing such service programs. The application shall be in such form, and shall contain such information, as the department and the board shall require by rule and regulation. The department, with the concurrence of the board, shall approve any application which meets all standards set forth by rule and regulation, and which presents satisfactory evidence that it will be operated consistent with the Emergency Medical Technician-Paramedic Act and the rules and regulations adopted and promulgated pursuant to such act and that the public shall be adequately protected by the arrangement proposed in the application. Upon approval of the application, the department shall issue a certificate to operate an approved service program to the applicant.

(2) An applicant for certification as an approved service program shall specify the primary service area and the level of service at which the service shall operate as follows:

(a) An Emergency Medical Technician-I Service Program shall be certified only to operate with certified advanced emergency medical technicians-I and to offer only such services as may be performed by such technicians;

(b) An Emergency Medical Technician-II Service Program shall be certified only to operate with certified advanced emergency medical technicians-I, certified advanced emergency medical technicians-II, and certified emergency medical technicians-D and to offer only such services as may be performed by such technicians;

(c) A Paramedic Service Program shall be certified to operate with all levels of certified emergency medical care personnel and to offer only such services as they may perform; and

(d) An Emergency Medical Technician-D Service Program shall be certified only to operate with certified emergency medical technicians-D and to offer only such services as may be performed by such technicians. Any such service program shall utilize only defibrillators which are capable of recording monitor strips and which may be operated only when

equipped with a device which records audio and electrocardiogram signals. The competency of such technicians to operate a defibrillator shall be confirmed monthly. If a technician fails such confirmation, his or her certification shall be suspended until confirmation is successfully completed. This subdivision shall not apply to emergency medical technicians-A/D or the use of automatic or semiautomatic defibrillators as such terms are defined in section 71-5102.

(3) An applicant for certification as an approved service program shall provide assurance to the satisfaction of the board that all patients under its care shall be transported only in vehicles operated by a licensed ambulance service. Such vehicle may be owned or leased by the applicant, or secured for use of the applicant by contract or other similar means.

(4) A certified advanced emergency medical technician-I, certified advanced emergency medical technician-II, certified emergency medical technician-paramedic, or certified emergency medical technician-D, who is employed by or serving as a volunteer member of an approved service program, may deliver advanced emergency medical care within the limits of his or her respective certification at the scene of an emergency, during transportation to a hospital, during the transfer of a patient between hospitals, or while in the hospital emergency department and under the supervision of an approved licensed physician.

(5) No certified advanced emergency medical technician-I, certified advanced emergency medical technician-II, certified emergency medical technician-paramedic, or certified emergency medical technician-D may assume the duties incident to such title, or practice the skills thereof, unless he or she is employed by or serving as a volunteer member of an approved service program certified by the department to offer services at the appropriate level.

(6) No fire department, rescue squad service, ambulance service, hospital, or other persons or entity shall operate a program to provide advanced emergency medical care using the services of certified advanced emergency medical technicians-I, certified advanced emergency medical technicians-II, certified emergency medical technician-paramedics, or certified emergency medical technicians-D, without first obtaining a certificate to operate such a program from the department.

Sec. 172. That section 71-5518, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5518. It shall be unlawful for any person to impart or convey, or cause to be imparted or conveyed, or to attempt to impart or convey, any false information knowing such information to be false concerning the need for assistance of a licensed ambulance service or rescue squad service or any personnel or equipment of such service. Any person who violates any provision of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than five hundred dollars, or be imprisoned in the county jail for not more than six months, or be both so fined and imprisoned.

Sec. 173. That section 71-5520, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5520. (1) Notwithstanding any other law to the contrary, a certified advanced emergency medical technician-II or trainee therefor, when employed by or serving as a volunteer member of an approved service program, when voice contact or a telemetered electrocardiogram is monitored by an approved licensed physician or by an approved physician surrogate when authorized and supervised by an approved licensed physician, and when direct communication is maintained, upon order of such physician or such approved physician surrogate, may do any of the following at the sites and under the circumstances described in subsection (4) of section 71-5508:

- (a) Render emergency care, rescue, and resuscitation services;
- (b) Administer intravenous solutions;
- (c) Perform gastric or tracheal suction or intubation;
- (d) Administer airway intubation by esophageal tube or endotracheal tube and, if such technician or trainee is additionally trained in the use of the esophageal tube, administer airway intubation by use of esophageal tube;
- (e) Perform pulmonary ventilation by use of esophageal airway or endotracheal tube, or other authorized aids to ventilation, including the use of esophageal airway if such technician or trainee is additionally trained in such use;
- (f) Perform venipuncture to draw blood specimens for analysis;
- (g) Apply rotating tourniquets;

(h) Administer any of the following classes of drugs or solutions in the treatment of a cardiac emergency;

- (i) Antiarrhythmic agents;
- (ii) Vagolytic agents;
- (iii) Chronotropic agents;
- (iv) Analgesic agents;
- (v) Alkalinizing agents;
- (vi) Vasopressor agents;
- (vii) Anticonvulsive agents;
- (viii) Narcotics;
- (ix) Diuretics;
- (x) Inotropic agents;

(xi) Other drugs or solutions which may be deemed necessary and ordered by an approved licensed physician with the approval of the board; and

(i) Perform cardiac electrical countershock in the event of asystole, ventricular fibrillation, or ventricular tachycardia with collapse.

(2) Notwithstanding any other law to the contrary, a certified emergency medical technician-paramedic or trainee therefor, when employed by or serving as a volunteer member of an approved service program, when voice contact or a telemetered electrocardiogram is monitored by an approved licensed physician or an approved physician surrogate when authorized and supervised by an approved licensed physician, and when direct communication is maintained, upon order of such physician or such physician surrogate, may do any of the following at the sites and under the circumstances described in subsection (4) of section 71-5508:

(a) Render emergency care, rescue, and resuscitation services;

(b) Administer intravenous solutions;

(c) Perform gastric or tracheal suction or intubation;

(d) Administer airway intubation by esophageal tube or endotracheal tube and, if such technician or trainee is additionally trained in the use of the esophageal tube, administer airway intubation by use of esophageal tube;

(e) Perform pulmonary ventilation by use of esophageal airway or endotracheal tube; or other authorized aids to ventilation, including the use of esophageal airway if such technician or trainee is additionally trained in such use;

(f) Perform aspiration of the chest;

(g) Perform venipuncture to draw blood

- specimens for analysis;
- (h) Apply rotating tourniquets;
- (i) Administer any of the following classes of drugs or solutions:
- (i) Antiarrhythmic agents;
 - (ii) Vagolytic agents;
 - (iii) Chronotropic agents;
 - (iv) Analgesic agents;
 - (v) Alkalinizing agents;
 - (vi) Vasopressor agents;
 - (vii) Anticonvulsive agents;
 - (viii) Inotropic agents;
 - (ix) Narcotic antagonists;
 - (x) Diuretics;
 - (xi) Ophthalmic agents;
 - (xii) Oxytocic agents;
 - (xiii) Antihistaminics;
 - (xiv) Bronchodilators;
 - (xv) Emetics;
 - (xvi) Narcotics; or
 - (xvii) Other drugs or solutions which may be deemed necessary and ordered by an approved licensed physician;
- (j) Perform cardiac electrical countershock;
- and

(k) Perform other emergency procedures deemed necessary and ordered by an approved licensed physician.

(3) Pursuant to the provisions of this section relating to the use of the endotracheal tube and the esophageal tube, an emergency medical technician training program may include training in the use of both the endotracheal tube and the esophageal tube, except that training in the use of the endotracheal tube shall always be given.

Sec. 174. That section 71-5819, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5819. Intermediate care facility shall mean an institution or facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide; but who, because of their mental or physical condition, require health-related care and services above the minimum level of room and board. Intermediate care facility shall include an intermediate care facility for the mentally retarded. A licensed intermediate care facility for the mentally retarded shall not be required to apply for and receive a

certificate of need upon transfer to licensure as an intermediate care facility so long as such transfer does not involve the development or the offering of any new institutional health services in violation of the Nebraska Health Care Certificate of Need Act.

Sec. 175. That section 71-6105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6105. Any person who has applied to take the examination under section 71-6106 or 71-6107 and who has completed the education and experience requirements of the Occupational Therapy Practice Act may be granted a temporary permit to practice as an occupational therapist or an occupational therapy assistant. A temporary permit shall allow the person to practice only in association with a licensed occupational therapist and shall be valid until the date on which the results of the next qualifying examination for licensure are released by the department licensure examination are available to the department. The temporary permit shall not be renewed if the applicant has failed the examination. The permit may be extended at the discretion of the board with the approval of the department. In no case may a temporary permit be extended beyond one year.

Sec. 176. That section 71-6111, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6111. The department shall have the power to enforce the Occupational Therapy Practice Act and to deny, revoke, or suspend any license to practice as an occupational therapist or occupational therapy assistant issued by the department or applied for in accordance with the provisions of section 71-6108 or to otherwise discipline a licensee on the grounds as specified in sections 71-147 and 71-148 and in the manner provided in sections 71-149 to 71-161.19. ~~71-147 to 71-161-08 and 71-161-11 to 71-161-19~~ and in rules and regulations defining unprofessional conduct adopted and promulgated by the department.

Sec. 177. That section 71-6114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6114. (1) The department shall establish and collect the following fees:

- (a) (1) For initial licensure, an amount not less than one hundred nor more than two hundred dollars;
- (b) (2) For renewal of license, an amount not less than one hundred nor more than two hundred dollars;

(c) (3) For reinstatement of license, ten dollars;

(d) (4) For a temporary permit, an amount not less than twenty-five dollars nor more than one hundred dollars;

(e) (5) For endorsement or certification, five dollars a certified statement that a licensee is licensed in this state, a fee of five dollars, and for verification that a licensee is licensed in this state, a fee of two dollars; and

(f) (6) For a duplicate license, five dollars.

(2) Any applicant whose application is rejected by the department or withdrawn by the applicant shall be allowed the return of his or her fee except for an administrative fee of twenty-five dollars to be retained by the department.

Sec. 178. That section 71-6115, Revised Statutes Supplement, 1987, be amended to read as follows:

71-6115. (1) There is hereby established the Board of Occupational Therapy Practice. The board shall consist of at least four members appointed by the State Board of Health, all of whom shall be residents of this state. Any statewide association of occupational therapists may submit a list of names of qualified persons from which the State Board of Health may choose members of the Board of Occupational Therapy Practice. Three of the persons appointed shall have been engaged in rendering services to the public, teaching, or research in occupational therapy for at least five years immediately preceding their appointments. Two of the persons appointed shall be occupational therapists and one shall be either an occupational therapist or an occupational therapy assistant and all shall be holders of valid licenses issued under the Occupational Therapy Practice Act during their terms. The fourth member shall be a member of the public with an interest in the rights of the consumers of health services. The members of the board shall serve five-year terms, except that the initial members of the board shall serve as follows: The member of the public shall serve one year and the remaining members shall serve terms of two, three, and four years as the State Board of Health shall designate. The term of each member shall commence on December 1 following the expiration of the preceding term. No person shall serve more than two full consecutive terms on the board. The State Board of Health shall fill any vacancy for an unexpired term in the same manner as the initial appointment. The members shall not receive

compensation but shall be reimbursed for their actual expenses incurred while in the performance of their duties in the same manner as state employees pursuant to sections 81-1174 to 81-1177. The board shall annually elect a chairperson and such other officers as it deems necessary and shall meet at least once per year or more as the department and board shall determine. Members of the board may be removed from office on the grounds and in the manner provided by section 71-118.

(2) The department shall adopt and promulgate rules and regulations necessary to administer the Occupational Therapy Practice Act. The rules and regulations shall include (a) definitions of unprofessional conduct, and (b) definitions of conflicts of interest for members of the board and procedures in the case such a conflict arises, and (c) role delineation for occupational therapy assistants.

Sec. 179. That section 81-651, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-651. (1) The Department of Health may provide visiting community nursing services or home health services to persons living in the state and may charge fees for such services. The department shall not be exempt from licensure under subsection (19) of section 71-2017.01 or the Nebraska Health Care Certificate of Need Act.

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

(3) The department (a) may employ necessary personnel, including, but not limited to, licensed nurses, physical therapists, physical therapy assistants, audiologists, speech-language pathologists, communication aides assistants, occupational therapists, occupational therapy assistants, home health aides, homemakers, respiratory care practitioners, nutritionists, social workers, and supervisory personnel, and may purchase equipment and materials necessary to maintain an effective program or (b) may contract with individuals or licensed agencies to obtain such services or to assist in providing services under subsection (1) of this section.

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

Sec. 180. That Laws 1987, LB 390, section 26,

be amended to read as follows:

Sec. 26. Sections 23 and 24 of this act shall become operative on ~~July 17, 1988~~ January 1, 1989. The remaining sections of this act shall become operative on their effective date.

Sec. 181. The Revisor of Statutes shall assign sections 108 to 114 of this act within sections 71-2017 to 71-2029 and any reference to sections 71-2017 to 71-2029 shall include sections 108 to 114 of this act.

Sec. 182. Sections 2, 5, 6, 8, 97, 132 to 139, and 184 of this act shall become operative on August 1, 1988. Sections 89, 96, and 183 of this act shall become operative on September 1, 1988. The remaining sections shall become operative on their effective date.

Sec. 183. That original section 71-1,277, Reissue Revised Statutes of Nebraska, 1943, and section 71-1,267, Revised Statutes Supplement, 1987, are repealed.

Sec. 184. That original sections 71-102, 71-107, 71-112, 71-2702, 71-2705, 71-2712, and 71-2802, Reissue Revised Statutes of Nebraska, 1943, section 33-150, Revised Statutes Supplement, 1986, and sections 71-3,106 and 71-2701, Revised Statutes Supplement, 1987, and also sections 71-2704, 71-2706 to 71-2711, 71-2713, 71-2714, and 71-2716 to 71-2719, Reissue Revised Statutes of Nebraska, 1943, and sections 71-2703, 71-2704.01, and 71-2715, Revised Statutes Supplement, 1987, are repealed.

Sec. 185. That original sections 28-1437, 44-2804, 71-121, 71-131, 71-133, 71-139.01, 71-150, 71-155, 71-161.01, 71-161.03 to 71-161.05, 71-161.07, 71-163, 71-175, 71-179, 71-185, 71-193.04, 71-193.25, 71-193.31, 71-1,132.08, 71-1,132.20, 71-1,132.29, 71-1,136.01, 71-1,142, 71-1,147.03 to 71-1,147.08, 71-1,147.10, 71-1,147.12, 71-1,153 to 71-1,155, 71-1,157, 71-1,160 to 71-1,163, 71-1,180, 71-1,186, 71-1,190, 71-1,194, 71-1,195.01, 71-1,195.03 to 71-1,195.09, 71-1,211, 71-1,212, 71-1,223 to 71-1,225, 71-1,232, 71-1,233, 71-1,258, 71-1,262, 71-1,265, 71-1,266, 71-1,268 to 71-1,270, 71-1,274, 71-1331, 71-1332, 71-1345, 71-1724, 71-2023, 71-2041.01, 71-2512, 71-2803 to 71-2804, 71-2807, 71-2814, 71-3710 to 71-3712, 71-4702, 71-4704, 71-4710 to 71-4712, 71-4714, 71-4715, 71-4716, 71-4718, 71-4719, 71-5101, 71-5110, 71-5113, 71-5407, 71-5502, 71-5508, 71-5518, 71-5520, 71-5819, 71-6105, 71-6111, 71-6114, and 81-651, Reissue Revised Statutes of Nebraska, 1943, sections 71-101,

71-110, 71-113, 71-114, 71-116, 71-147, 71-148, 71-149, 71-162, 71-195, 71-198, 71-1,132.07, 71-1,135.02, 71-1,136.03, 71-1,147.09, 71-1,158, 71-1,178, 71-1,183, 71-1,195.02, 71-1,271, 71-1,275, 71-3,171, 71-519, 71-1330, 71-1333, 71-2017.01, 71-4701, 71-4706, 71-4707, 71-4708, 71-5102, 71-5111, and 71-6115, Revised Statutes Supplement, 1987, and Laws 1987, LB 390, section 26, and also sections 71-101.02, 71-134 to 71-134.03, 71-155.01, 71-155.02, 71-161.08, 71-180.01 to 71-180.05, 71-192, 71-1,151, 71-1,164, 71-1,165, 71-1,167, 71-1,177, 71-1,179, 71-1,182, 71-1,197.01, 71-1,215 to 71-1,217, 71-1,272, 71-1,276, 71-1104 to 71-1106, 71-1108 to 71-1110, 71-1112, 71-1114, 71-1115, 71-1334, 71-1335, 71-2017.05, 71-2806, 71-2813, 71-2818, and 71-4713, Reissue Revised Statutes of Nebraska, 1943, and sections 71-1107 and 71-1111, Revised Statutes Supplement, 1987, are repealed.

Sec. 186. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.