

LEGISLATIVE BILL 344

Approved by the Governor March 1, 1989

Introduced by Health and Human Services Committee,
Wesely, 26, Chairperson; Byars, 30;
Schellpeper, 18; Crosby, 29; Dierks, 40;
Lynch, 13

AN ACT relating to health; to amend sections 28-343, 42-106, 71-1,132.13, 71-1,132.37, 71-388, 71-604, 71-605, 71-606, 71-612, 71-615, 71-1723, 71-2033, 71-2035, 71-3702, 71-3703, 71-3704, 71-5311, 71-6106, and 71-6107, Reissue Revised Statutes of Nebraska, 1943, and sections 71-101, 71-2041.02, 71-2045.01, 71-2225 to 71-2230, 71-3705, and 71-4706, Revised Statutes Supplement, 1988; to change provisions relating to forms for registering or reporting births, abortions, marriages, annulments, dissolutions of marriage, and deaths and to obtaining copies of such records; to provide for confidentiality as prescribed; to require a fee; to change provisions relating to application for initial licensure, certification, or registration within ninety days prior to the biennial renewal date; to authorize the Department of Health to act as the survey and certification agency for medicare and medicaid purposes; to change the membership of certain councils and a board; to change and eliminate definitions; to change provisions relating to food programs administered by the department; to harmonize provisions; to repeal the original sections, and also sections 71-2209 to 71-2224, Revised Statutes Supplement, 1988; and to declare an emergency.

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

Section 1. The Department of Health shall adopt and promulgate rules and regulations prescribing all standard forms for registering or reporting any birth, abortion, marriage, annulment, dissolution of marriage, or death registered in Nebraska. Such forms shall (1) provide for the registration of vital events as accurately as possible, (2) secure information about the economic, educational, occupational, and

sociological backgrounds of the individuals involved in the registered events and their parents as a basis for statistical research in order to reduce morbidity and mortality and improve the quality of life. (3) accomplish such duties in a manner which will be uniform with forms for reporting similar events which have been established by the United States Public Health Service to the extent such forms are consistent with state law, and (4) permit other deviations from such forms as will reduce the costs of gathering information, increase efficiency, or protect the health and safety of the people of Nebraska without jeopardizing such uniformity.

All information on racial or ethnic background, number of marriages, education, and reasons for termination of marriages shall be confidential, not subject to subpoena, and inadmissible in evidence in any legal proceeding of any kind or character. Such data may be disclosed by the department to the United States Public Health Service or its successor. The department may publish analyses of any information received on the forms for scientific and public health purposes in such a manner as to assure that the identity of any individual concerned cannot be ascertained.

Sec. 2. That section 28-343, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-343. The Bureau of Vital Statistics, Department of Health, shall establish prescribe an abortion reporting form which shall be used for the reporting of every abortion performed in this state. Such form shall include only the following items:

- (1) The age of the pregnant woman;
- (2) The location of the facility where the abortion was performed;
- (3) The type of procedure performed;
- (4) Complications, if any;
- (5) The name of the attending physician;
- (6) The pregnant woman's obstetrical history regarding previous pregnancies, abortions, and live births;
- (7) The stated reason or reasons for which the abortion was requested;
- (8) The state of the pregnant woman's legal residence;
- (9) The length and weight of the aborted child, when measurable; and
- (10) Whether an emergency situation caused the physician to waive any of the requirements of section 28-327; and

(11) Such other information as may be prescribed in accordance with section 1 of this act.

The completed form shall be signed by the attending physician and sent to the Bureau of Vital Statistics within fifteen days after each reporting month. The completed form shall be an original, typed or written legibly in durable ink, and shall not be deemed complete unless the omission of any item of information required shall have been disclosed or satisfactorily accounted for. Carbon copies shall not be acceptable. The abortion reporting form ~~required under this section~~ shall not include the name of the person upon whom the abortion was performed. The abortion reporting form ~~required under this section~~ shall be confidential and shall not be revealed except upon the order of a court of competent jurisdiction in a civil or criminal proceeding.

Sec. 3. That section 42-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-106. When ~~an~~ application ~~shall be is~~ made for a license to the county clerk, he or she shall, upon the granting of such license, state in the license the information contained in the application as provided in section 42-104. The license shall, prior to the issuing thereof, be entered of record in the office of the county clerk in a suitable book to be provided for that purpose.

The forms for the application, license, and certificate of marriage shall be provided by the ~~Bureau of Vital Statistics~~ Department of Health at actual cost as determined by the ~~bureau~~ department.

Sec. 4. That section 71-101, Revised Statutes Supplement, 1988, be amended to read as follows:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,294, 71-1325 to 71-1354, and 71-2801 to 71-2822 and section 5 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;

(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. If an applicant for an initial license, certificate, or registration files an application for licensure, certification, or registration within ninety days prior to the biennial renewal date of such a license, certificate, or registration, the applicant may either:

(1) Request that the department delay the processing of the application and the issuance of the license, certificate, or registration until the biennial renewal date and pay only the fee for initial licensure, certification, or registration; or

(2) Request that a license, certificate, or registration which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure, certification, or registration and an additional fee of one-fourth of the biennial fee.

Sec. 6. That section 71-1,132.13, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.13. (1) An applicant for a license to practice as a registered professional nurse shall file with the department a written application for a

license and submit satisfactory proof that the applicant: ~~{1}~~ {a} is of good moral character, {b} ~~7~~ {2} has completed four years of high school study or its equivalent as determined by the department, ~~7~~ and {3} {c} has completed the basic professional curriculum in an accredited school of professional nursing approved by the board and holds a diploma therefrom. Such application shall be made upon a form prescribed and approved by the department, verified by the applicant's oath, and accompanied by an application fee as set by the department.

{2} If an applicant for an initial license files an application for licensure within ninety days prior to the biennial renewal date of the license, the applicant may either:

{a} Request that the department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or

{b} Request that a license which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial fee.

Sec. 7. That section 71-1,132.37, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.37. {1} An applicant for a license to practice as a licensed practical nurse shall file with the department a written application for a license, pay the fee as set by the department, and submit satisfactory proof that the applicant:

{1} {a} Is eighteen years of age or more;

{2} {b} Is of good moral character;

{3} Commencing July 1, 1976, has {c} Has completed four years of high school study or its equivalent as determined by the board; and

{4} {d} Has completed the basic curriculum in an accredited school of practical nursing approved by the board and holds a diploma therefrom.

{2} If an applicant for an initial license files an application for licensure within ninety days prior to the biennial renewal date of the license, the applicant may either:

{a} Request that the department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or

{b} Request that a license which will be valid until the next subsequent renewal date be issued

immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial fee.

Sec. 8. That section 71-388, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-388. (1) Application for any type of licensure or registration shall be made on forms and in the manner prescribed by the department with the approval of the board. A complete application for examination shall be postmarked no later than fifteen days before the beginning of the examination for which application is being made. Applications received after such date shall be considered as applications for the next scheduled examination. No application for any type of licensure or registration shall be considered complete unless all information requested in the application has been supplied, all seals and signatures required have been obtained, all supporting and documentary evidence has been received by the department, and the application is accompanied by the appropriate fee.

(2) If an applicant for an initial license or registration files an application for licensure or registration within ninety days prior to the biennial renewal date of such a license or registration, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the license or registration until the biennial renewal date and pay only the fee for initial licensure or registration; or

(b) Request that a license or registration which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure or registration and an additional fee of one-fourth of the biennial fee.

Sec. 9. That section 71-604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-604. (1) A certificate for each live birth which occurs in the State of Nebraska shall be filed on a standard Nebraska certificate form ~~which shall conform to the minimum requirements of the United States Public Health Service.~~ Such certificate shall be filed with the Bureau of Vital Statistics within five business days after the birth.

(2) When a birth occurs in or en route to a hospital or other institution, the certificate of birth shall be prepared in the facility and shall be signed by

the person certifying the birth in his or her own handwriting. The physician or other person in attendance shall provide the medical information required for the certificate and certify the facts of birth within seventy-two hours after the birth.

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

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

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

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

Sec. 10. That section 71-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-605. (1) The funeral director in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard ~~blank form~~ adopted and promulgated by the Department of Health, ~~which shall conform to the minimum requirements of the United States Public Health Service.~~ Such standard ~~blank form~~ shall include a space for certificate of veteran status and the period of service in the armed forces of the United States as defined in section 80-401.01 and a statement of the cause of death made by a person holding a valid license as a physician who last attended the deceased. Death and fetal death certificates shall be completed by the funeral directors and physicians only for the purpose of filing with the Bureau of Vital Statistics.

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

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years unless an autopsy is performed at county expense by a qualified pathologist, unless the ~~parent parents~~ or guardian signs a written waiver of the right to autopsy. The parents

or guardian shall be notified of the results of the autopsy by their physician, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

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

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

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

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the Bureau of Vital Statistics to a licensed funeral director upon proper application. The request for disinterment shall be made

by the next of kin of the deceased, as listed in section 71-1339, or a county attorney on a form furnished by the bureau. The application shall be signed by the funeral director who will be directly supervising the disinterment. When the disinterment occurs, the funeral director shall sign the permit giving the date of disinterment and file the permit with the Bureau of Vital Statistics within ten days of the disinterment.

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

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

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director, except that hospital disposition may be made of the dead human body of a stillborn infant with due respect for the same and in accordance with existing law when requested by the parents or legal guardian.

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

Sec. 11. That section 71-606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-606. A child born dead shall be registered

as a fetal death on a certificate form furnished by the Bureau of Vital Statistics which shall conform to the minimum requirements of the United States Public Health Service Department of Health. Such certificate shall not be required for a child which has not advanced to the twentieth week of gestation. The certificate shall be filed with the ~~bureau~~ Bureau of Vital Statistics by the funeral director in charge of the funeral and shall include a statement of the cause of death made by a person holding a valid license as a physician who was in attendance. In the event of hospital disposition, as provided in section 71-605, the entire certificate shall be completed by the attending physician and subscribed to also by the hospital administrator or his or her designated representative. If the attendant is not a physician, the death shall be referred to the county attorney for certification. The same time limit for completion shall apply as for a regular death certificate.

Sec. 12. That section 71-612, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-612. (1) The Director of Health, as the State Registrar, through the Department of Health shall preserve permanently and index all certificates received. The department shall supply to any applicant for any proper purpose, as defined by rules and regulations of the department, a certified copy of the record of any birth, death, marriage, or ~~divorce~~ dissolution of marriage registered. Except as provided in subsections (2), (3), (5), and (6) of this section, the department shall be entitled to charge and collect in advance a fee of five dollars, to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for any such record, whether or not the record is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record on file with the department upon the request of (a) the United States Department of Veterans Affairs Veterans Administration; or any lawful service organization empowered to represent veterans; if the copy of the record is to be issued, for the welfare of any member or veteran of the armed forces of the United States; or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the military department Military Department of the State of Nebraska.

(3) The department may, free of charge, search for and furnish a certified copy of any record on file with the department when in the opinion of the director of vital statistics it would be a hardship for the claimant of old age, survivors', or disability benefits under the Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Such funds shall be paid to the state treasury and by remitted to the State Treasurer credited who shall credit the funds to the Bureau of Vital Statistics Fund, which fund is hereby created. The fund shall be used for the purpose of administering the laws relating to vital statistics. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. The fund may be used to create, under section 81-104.01, a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) The Department of Health shall, upon request, conduct a search of death certificates for stated individuals for the Nebraska Medical Association or any of its allied medical societies or any in-hospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that such fee shall not exceed two dollars per individual search or copy requested.

(6) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for any such record, whether or not the record is found on file with the department. Any county containing a city of the metropolitan class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established system of registering births and deaths shall charge and collect in advance a fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for such record, whether or not the

record is found on file with the county. All such - Such fees collected shall be paid to the state treasury and credited remitted to the State Treasurer who shall credit the fees to the General Fund.

Sec. 13. That section 71-615, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-615. On or before the fifth day of each month, the clerk of the district court of each county shall make and return to the Department of Health, upon suitable blanks forms furnished by the department, a statement of each action for annulment or dissolution of marriage granted in the court of which he or she is clerk during the preceding calendar month. The information shall be furnished by the petitioner or his or her legal representative and presented to the clerk of the court with the petition. In all cases, the furnishing of the information to complete the record shall be a prerequisite to the granting of the final decree. If no annulments or dissolutions of marriage were granted in the county during the preceding month, a card furnished by the department indicating such information shall be submitted on or before the fifth day of each month to the department. Upon neglect or refusal to make such return, such clerk shall, for each neglect or refusal, forfeit and pay the sum of twenty-five dollars, for the use of the county.

Sec. 14. For the purpose of assisting the citizens of the state in receiving benefits under the federal medicare law, the State of Nebraska authorizes the Department of Health to act as the survey and certification agency for the medicare program in Nebraska and to contract to perform such functions with the federal agency responsible for administration of the medicare program and to enter into such other agreements as may be necessary to implement federal requirements.

Sec. 15. The Department of Health is hereby authorized to act as the survey and certification agency for the medicaid program and to enter into such agreements with the Department of Social Services as may be necessary to carry out its duties.

Sec. 16. That section 71-1723, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1723. (1) Anyone fulfilling the requirements listed in section 71-1722 shall be issued a certificate as a nurse practitioner by the department with the approval of the board of examiners and the board.

(2) If an applicant for an initial certificate files an application for certification within ninety days prior to the biennial renewal date of the certificate, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the certificate until the biennial renewal date and pay only the fee for initial certification; or

(b) Request that a certificate which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial certification and an additional fee of one-fourth of the biennial fee.

Sec. 17. That section 71-2033, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2033. The council shall consist of ~~twelve~~ fifteen members appointed by the Governor as follows:

(1) One member shall be a licensed registered nurse in the State of Nebraska;

(2) One member shall be a licensed physician and surgeon in the State of Nebraska;

(3) One member shall be a licensed dentist in the State of Nebraska;

(4) One member shall be a registered pharmacist in the State of Nebraska;

(5) One member shall be a representative of the Department on Aging;

(6) One member shall be a representative of the Department of Social Services;

(7) One member shall be representative of an agency of state or local government, other than the ~~department~~ Department of Health, with interests in or responsibilities for nursing homes or programs related thereto;

~~(6) Three~~ (8) Four members shall be laypersons representative of the public;

~~(7) (9)~~ Two members shall be administrators or owners of proprietary nursing homes; and

~~(8) (10)~~ Two members shall be administrators or owners of voluntary nursing homes.

Sec. 18. That section 71-2035, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2035. Members shall be appointed for a three-year term; ~~PROVIDED, that in making initial appointments the Governor shall provide for staggered terms of office so that the terms of four members of the council shall expire each year and successors shall be appointed thereafter for three-year terms.~~ Vacancies in

any position on the council shall be filled for the unexpired portion of the term by appointment by the Governor in the same manner as provided for the original appointments.

Sec. 19. That section 71-2041.02, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2041.02. (1) The board shall issue a license to each applicant who submits (a) satisfactory evidence of completion of an associate degree or its equivalent in long-term care administration, allied health, or human services, including completion of one two-credit-hour course in each of the following areas: General administration; social gerontology; health problems of the aged; patient services and care; health and social service delivery systems; and a seminar on contemporary developments in aging including the Older Americans Act, (b) completion of an administrator-in-training program under a certified preceptor, and (c) evidence of successful passage of the National Association of Boards of Examiners for Nursing Home Administration written examination and a state examination that covers applicable state statutes and rules and regulations as approved by the board, except that two years of successful experience as an administrator of a domiciliary or residential care facility of at least one hundred residents, immediately preceding application for licensure, may be considered equivalent to the requirements prescribed in subdivision (1)(b) of this section. The board shall evaluate the experience of an applicant requesting the substitution of the requirements listed in subdivision (1)(b) of this section with two years of experience and shall obtain the affidavit of at least two licensed nursing home administrators in Nebraska testifying that the applicant is of good moral character and in good standing as an administrator of a domiciliary or residential care facility. In no case shall the board accept such substitution if the domiciliary or residential care facility while under the direction and administration of the applicant had its license suspended, denied, or revoked. The board shall license administrators in accordance with sections 71-2041.01 to 71-2045.10 and standards, rules, and regulations adopted and promulgated by ~~it pursuant thereto~~ the board pursuant to such sections. The license shall not be transferable or assignable, and each administrator shall be full time and responsible for the operation of only one licensed facility.

(2) Such licenses If an applicant for an initial license files an application for licensure within ninety days prior to the biennial renewal date of the license, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or

(b) Request that a license which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial fee.

(3) Licenses may be denied, suspended, refused renewal, or revoked by the board for due cause which shall include: (a) Fraud in procuring a license; (b) immoral, unprofessional, or dishonorable conduct; (c) habitual intoxication or addiction to the use of drugs; (d) distribution of intoxicating liquors or drugs for other than lawful purposes; (e) conviction of a felony; (f) physical or mental incapacity to perform professional duties; (g) violation of any provision of sections 71-2041.01 to 71-2045.10 or standards, rules, and regulations adopted and promulgated thereunder or of any law, standards, rules, and regulations relating to the proper administration and management of a home for the aged or infirm or nursing home; (h) commission of any of the acts or offenses set forth in sections 71-147 and 71-148; and (i) failure to pay the required fees. Except in cases of failure to pay the required fees, no license shall be denied, suspended, refused renewal, or revoked except after due notice and opportunity for a hearing. Any denial, suspension, refusal of renewal, or revocation of such license may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. A person whose license has been revoked, suspended, or limited may petition the board for reinstatement in the manner provided by sections 71-161.04 to 71-161.06.

Sec. 20. That section 71-2045.01, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2045.01. (1) There is hereby created, under the supervision of the department, the Board of Examiners in Nursing Home Administration which shall consist of the Director of Health or his or her designated representative, the Director of Social Services or his or her designated representative, the Director on Aging or his or her designated representative, and the following members appointed by

the State Board of Health: (a) Two members who hold an active ~~license~~ licenses and are currently employed in the management, operation, or ownership of proprietary homes for the aged or infirm or nursing homes that serve the aged or infirm in Nebraska; (b) ~~one member who holds an active license and is two members who hold active licenses and are~~ currently employed in the management or operation of a nonprofit home for the aged or infirm or nursing home or hospital caring for chronically ill or infirm, aged patients; (c) one member who is a member of the faculty of a college or university located in the state who is actively engaged in a teaching program relating to business administration, social work, gerontology, or some other aspect of the administration of health care facilities; (d) one member who is a licensed physician and surgeon with a demonstrated interest in long-term care; and (e) one member who is a licensed registered professional nurse. The members of the board shall serve as members of such board until the expiration of their respective terms or until their successors have been appointed and qualified. Each appointed member who is an administrator shall be licensed pursuant to sections 71-2041.01 to 71-2045.10.

(2) The appointed members shall be appointed for a ~~term~~ terms of three years, and the terms shall be staggered so that the ~~term~~ terms of two appointed members of the board ~~expires~~ expire each year. The term of each member shall commence on the first day of December following the expiration of the term of the member whom such person succeeds. ~~Vacancies~~ A vacancy in any appointive position on the board shall be filled for the unexpired portion of the term by appointment by the State Board of Health in the same manner as original appointments are made. Appointed members shall serve until their successors are appointed and qualified.

(3) The State Board of Health shall have power to remove from office at any time any member of the board after a public hearing pursuant to the Administrative Procedure Act for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a license may be suspended or revoked, or for a lack of licensure.

(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. 21. That section 71-2225, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2225. For purposes of sections 71-2225 to 71-2230:

(1) CSF program shall mean the Commodity Supplemental Food Program administered by the United States Department of Agriculture or its successor;

(2) Food instrument shall mean a voucher, check, coupon, or other document used to obtain supplemental foods;

(3) Supplemental foods shall mean (a) foods containing nutrients determined to be beneficial for infants, children, and pregnant, breast-feeding, or postpartum women as prescribed by the United States Department of Agriculture for use in the WIC program and (b) foods donated by the United States Department of Agriculture for use in the CSF program; and

(4) WIC program shall mean the Special Supplemental Food Program for Women, Infants, and Children authorized by section 17 of the Child Nutrition Act of 1966, as amended and extended, and as may be established and administered by the department pursuant to sections 71-2209 to 71-2230 as administered by the United States Department of Agriculture or its successor.

Sec. 22. That section 71-2226, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2226. The department may conduct a statewide program for providing nutritional food supplements and nutrition education directly or through local agencies, vendors, or other agencies or a combination thereof, to low-income pregnant, breast-feeding, and postpartum women, infants, and children who have been determined to be at nutritional risk and otherwise eligible for participation in such program based upon criteria established by the department by rule and regulation. Any program established by the department pursuant to this section shall be known as the Nebraska Special Supplemental Food Program for Women, Infants, and Children and shall be conducted only if and to the extent that federal funds are appropriated therefor and granted to the department for such purpose. The department is hereby authorized to seek and receive federal funds to carry out the provisions of this section, and the State of Nebraska hereby accepts and assents to all applicable provisions of the Child Nutrition Act of 1966, as amended and

extended, for the purpose of conducting a Special Supplemental Food Program for Women, infants, and Children in Nebraska. The department may adopt and promulgate such rules and regulations and enter into such agreements as may be necessary to effectively operate and administer such a program in accordance with applicable federal statutes and Title 7, Part 246, of the Code of Federal Regulations and consistent with Nebraska law. The Department of Health is authorized to have a state CSF program to protect the health and welfare of the citizens of Nebraska by providing nutritious foods donated for such program by the United States Department of Agriculture, nutrition education, and such other benefits as are available to women, infants, children, and elderly persons in Nebraska who are low income and vulnerable to malnutrition as long as federal funds are available from the CSF program and are granted to the department.

To the extent consistent with state law, the Department of Health may establish, operate, and maintain the program in a way that will qualify it to receive federal funds and that is uniform with United States Department of Agriculture's standards, enter into agreements with the federal government to establish a CSF program, adopt and promulgate rules and regulations to implement a CSF program which are consistent with federal regulations and such other rules and regulations as may be necessary to implement the CSF program, and enter into such other agreements as may be necessary to implement the program within this state.

Sec. 23. That section 71-2227, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2227. The department may conduct a statewide program directly or through local agencies or a combination thereof, under which low-income pregnant, breast-feeding, and postpartum women, infants, children, and elderly who are vulnerable to malnutrition and otherwise eligible for participation under criteria established by the department by rule and regulation shall be provided nutrition education and may obtain supplemental nutritious foods donated for such program by the United States Department of Agriculture under the Commodities Supplemental Food Program. Any program established by the department pursuant to this section shall be known as the Nebraska Commodities Supplemental Food Program and shall be conducted only if and to the extent that federal funds are appropriated therefor and granted to the department for such purpose. The

department is hereby authorized to seek and receive federal funds to carry out the provisions of this section, and the State of Nebraska hereby accepts and assents to all applicable provisions of the Agriculture and Consumer Protection Act of 1973, as amended and extended, the Food and Agriculture Act of 1977, as amended and extended, and the Food Security Act of 1985, as amended and extended, for the purpose of conducting a Commodities Supplemental Food Program in Nebraska. The department may adopt and promulgate such rules and regulations and enter into such agreements as may be necessary to effectively operate and administer such a program in Nebraska in accordance with applicable federal statutes and Title 7, Part 247 and Part 250, Subchapter B, Code of Federal Regulations, and consistent with Nebraska law. The Department of Health is authorized to have a state WIC program to protect the health and welfare of citizens of Nebraska by providing nutritional supplemental foods and nutrition education to women, infants, and children who are low income and determined to be at nutritional risk as long as federal funds are available from the WIC program and are granted to the department.

To the extent consistent with state law, the department may establish, operate, and maintain the program in a way that will qualify it to receive federal funds and that is uniform with United States Department of Agriculture's standards, enter into agreements with the federal government to establish a WIC program, adopt and promulgate rules and regulations to implement a WIC program which are consistent with federal regulations and such other rules and regulations as may be necessary to implement the WIC program, and enter into such other agreements as may be necessary to implement the program within this state.

Sec. 24. That section 71-2228, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2228. Any person who by means of a willfully false statement or representation, by impersonation, or by other device obtains or attempts to obtain or aids or abets any person to obtain or to attempt to obtain (1) a food instrument to which he, she, or it is not entitled, (2) any supplemental foods to which such person is not entitled, or (3) any other benefit administered by the department Department of Health under sections 71-2209 to 71-2230 71-2226 and 71-2227 commits an offense and shall, upon conviction, be punished as follows: (a) If the aggregate value of

all funds or other benefits obtained or attempted to be obtained is less than five hundred dollars, the person so convicted shall be guilty of a Class III misdemeanor; or (b) if the aggregate value of all funds and other benefits obtained or attempted to be obtained is five hundred dollars or more, the person so convicted shall be guilty of a Class IV felony.

Sec. 25. That section 71-2229, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2229. (1) A person commits an offense if he, she, or it knowingly and unlawfully uses, alters, or transfers a food ~~instruments or instrument~~ or supplemental food, supplements. An offense under this subsection shall be a Class III misdemeanor if the value of the food instrument or benefit is less than five hundred dollars and shall be a Class IV felony if the value of the food instruments or benefits instrument or benefit is five hundred dollars or more.

(2) A person commits an offense if he, she, or it (a) knowingly and unlawfully (a) possesses a food instrument or supplemental food, instruments or feed supplements or (b) knowingly and unlawfully redeems a food instruments instrument, (c) knowingly falsifies or misapplies a food instrument, or (d) fraudulently obtains a food instrument. An offense under this subsection shall be a Class III misdemeanor if the value of the food instrument or benefit is less than five hundred dollars and shall be a Class IV felony if the value of the food ~~instruments or benefits instrument or benefit~~ is five hundred dollars or more.

(3) A person commits an offense if he, she, or it knowingly and unlawfully possesses a ~~blank authorizations~~ authorization to participate in the WIC program or CSF program. An offense under this subsection shall be a Class IV felony.

(4) When food instruments or supplemental foods are obtained in violation of this section pursuant to one scheme or a continuing course of conduct, whether from the same or several sources, such conduct may be considered as one offense and the values aggregated in determining the grade of the offense.

Sec. 26. That section 71-2230, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2230. The Attorney General may take such civil action as may be necessary to enforce the provisions of sections ~~71-2209 to 71-2230~~ 71-2226 to 71-2229. ~~The department may adopt and promulgate rules~~

and regulations which provide for disqualification and suspension of vendors and participants of any programs established pursuant to sections 71-2209 to 71-2230, except that no vendor may be disqualified or suspended for more than three years, and no participant may be disqualified or suspended for more than three months.

Sec. 27. That section 71-3702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3702. As used in For purposes of sections 71-3701 to 71-3715, unless the context otherwise requires:

(1) Board shall mean the Board of Registration for Sanitarians;

(2) Sanitarian shall mean a person who by education and experience in the physical, biological, and sanitary sciences, is qualified to carry out educational, investigational, and technical duties in the field of environmental sanitation;

(3) Registered sanitarian shall mean a person who has the educational requirements and has had experience in the field of environmental sanitation required by subsection subdivision (1) of section 71-3703 and is registered in accordance with the provisions of sections 71-3701 to 71-3715;

(4) Sanitarian-in-training shall mean a person who is qualified by education but does not have at least one full year of experience in the field of environmental sanitation and is registered in accordance with the provisions of sections 71-3701 to 71-3715; and

(5) Certificate of registration shall mean a document issued as evidence of registration and qualification to practice as a sanitarian or a sanitarian-in-training under sections 71-3701 to 71-3715, and bearing the designation Registered Sanitarian, or Sanitarian-in-Training, and showing the name of the person, date of issue, serial number, seal, and signatures of the members of the board authorized to grant such certificates.

Sec. 28. That section 71-3703, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3703. (1) Any person desiring to be registered as a sanitarian may make application to the board on a form prescribed by the board. The board shall accept such application when submitted if accompanied by the required fees. Persons meeting the following qualifications A person shall be eligible for registration under sections 71-3701 to 71-3715 -

(1) Graduate if he or she has graduated with a baccalaureate, or higher, degree from an accredited college or university, who has satisfactorily completed at least forty-five quarter hours or thirty semester hours, of academic work in the basic natural sciences, has been ; employed full time as a sanitarian for a period not less than one year, and has ; and having passed an examination given and conducted by the board under the provisions of sections 71-3701 to 71-3715, PROVIDED, that persons section 71-3705, except that a person holding a degree higher than a baccalaureate degree and who have who has satisfactorily completed at least forty-five quarter hours, or thirty semester hours, of academic work in the basic natural sciences may qualify when employed as a sanitarian for a period of not less than six months. ; and

(2) Any person who on or before December 31, 1964, has been employed as a practicing sanitarian for a period not less than two years, may at the discretion of the board be considered for registration; if such person applies for registration within twelve months of October 19, 1963-

(2) If an applicant for an initial registration files an application for registration within ninety days prior to the biennial renewal date of such registration, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the registration until the biennial renewal date and pay only the fee for initial registration; or

(b) Request that a registration which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial registration and an additional fee of one-fourth of the biennial fee.

Sec. 29. That section 71-3704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3704. (1) Any person meeting the educational qualifications of subdivision subsection (1) of section 71-3703 but who does not meet the experience requirements of such subdivision; may make application to the board on a form prescribed by the board for registration as a sanitarian-in-training. The board shall accept such application when submitted; if accompanied by the required fees.

(2) If an applicant for an initial registration files an application for registration within ninety days prior to the biennial renewal date of such registration, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the registration until the biennial renewal date and pay only the fee for initial registration; or

(b) Request that a registration which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial registration and an additional fee of one-fourth of the biennial fee.

Sec. 30. That section 71-3705, Revised Statutes Supplement, 1988, be amended to read as follows:

71-3705. (1) Only persons who meet the educational and experience requirements in subdivision subsection (1) of section 71-3703 shall be eligible for admission to examination for registration as a sanitarian.

(2) Examinations for registration as a sanitarian under sections 71-3701 to 71-3715 shall be administered not less than once each calendar year and at such times and places in this state as may be specified from time to time by the board. Such examinations may be written, oral, or both and shall include applicable subjects in the field of sanitary science and such other subjects pertinent to the qualifications of sanitarians as the board may prescribe. The examination papers shall not disclose the name of the applicant, but shall be identified by a number assigned by the secretary of the board. The preparation of the examination shall be the responsibility of the board, but the board may use material prepared by recognized examination agencies.

(3) The department may adopt and promulgate rules and regulations to provide for the review of procedures for the development and administration of examinations and to protect the security of the content of examination questions and answers. The department shall not enter into an agreement to adopt an examination from a national testing service without first obtaining from that service detailed documentation of the process of examination development and maintenance.

(4) A person shall not be registered if he or she fails to meet the minimum grade requirements for examination specified by the board. If an applicant fails to meet such minimum grade requirements in his or her first examination, he or she may be reexamined after a lapse of not less than sixty days at such a place as designated by the board by resubmitting his or her application along with such examination fee as may be

set by the board.

(5) The examination papers and records pertaining thereto shall be filed with the secretary of the board and retained for at least one year.

Sec. 31. That section 71-4706, Revised Statutes Supplement, 1988, be amended to read as follows:

71-4706. (1) Application for a license under sections 71-4701 to 71-4719 shall be made to the department on forms prescribed by the department and shall be accompanied by the fee specified in section 71-4714.01. 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.

(2) If an applicant for an initial license files an application for licensure within ninety days prior to the biennial renewal date of the license, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or

(b) Request that a license which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial fee.

(3) Whenever the board determines that another state or jurisdiction has requirements equivalent to those in effect pursuant to sections 71-4701 to 71-4719 and that such state or jurisdiction has a program equivalent to the program for determining whether applicants pursuant to such sections are qualified to fit and sell hearing aids, the department may issue 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 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.

Sec. 32. That section 71-5311, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5311. (1) There is hereby established the Advisory Council on Public Water Supply which shall advise and assist the department in administering the provisions of sections 71-5301 to 71-5313 Nebraska Safe

Drinking Water Act.

(2) The council shall be composed of seven members appointed by the Governor, three of whom shall be owners or operators of public water supply systems; (a) one of whom shall be a registered professional engineer, (b) one of whom shall be a licensed physician, and (c) two of whom shall be consumers of a public water supply system, (d) two of whom shall be operators of a public water supply system who possess a certificate of competency issued by the Department of Health to operate a public water supply system. One such operator shall represent a system serving a population of five thousand or less, and one such operator shall represent a system serving a population of more than five thousand, and (e) one of whom shall be, at the time of appointment, (i) an individual who owns a public water supply system, (ii) a member of the governing board of a public or private corporation which owns a public water supply system, or (iii) in the case of a political subdivision which owns a public water supply system, a member of the subdivision's governing board or board of public works or similar board which oversees the operation of a public water supply system. Each operator of a public water supply system appointed to the council after January 1, 1979, shall be an operator certified by the director.

Any owner or operator of a public water supply system serving on the council on the effective date of this act shall continue to serve until the term of such member expires. As his or her term expires, such owner or operator shall be replaced by a person qualified as prescribed in subdivisions (d) and (e) of this subsection respectively.

(3) The Governor shall make the initial appointments to the council within sixty days after July 10, 1976. In the making of initial appointments, one owner or operator and one consumer shall be appointed to serve for terms of one year each; one owner or operator, one consumer, and the physician shall be appointed to serve for terms of two years each; and one owner or operator and the registered professional engineer shall be appointed to serve for terms of three years each. Thereafter, all All members shall be appointed for three-year terms. No member shall serve more than three consecutive three-year terms. Each member shall hold office until the expiration of his or her term or until a successor has been appointed. Any vacancy occurring in council membership, other than by expiration of term, shall be filled within sixty days by the Governor, by

appointment from the appropriate category for the unexpired term.

(4) The council shall meet ~~within sixty days after the appointment of its members and not less than once each year thereafter.~~ Special meetings of the council may be called by the director or upon the written request of any two members of the council explaining the reason for such meeting. The place of the meeting shall be set by the director. ~~At the first meeting of the council, such~~ Such officers as the council deems necessary shall be elected every three years beginning with the first meeting in the year 1990. A majority of the members of the council shall constitute a quorum for the transaction of business. Representatives of the department shall attend each meeting. Every act of the majority of the members of the council shall be deemed to be the act of the council.

(5) No member of the council shall receive any compensation, but each member shall be entitled, while serving on the business of the council, to receive his or her travel and other necessary expenses while so serving away from his or her place of residence, on the same basis and subject to the same conditions as those of full-time state employees as provided in sections 81-1174 to 81-1177.

Sec. 33. That section 71-6106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6106. (1) An applicant applying for a license as an occupational therapist shall file a written application in the manner and on forms provided by the department, showing to the satisfaction of the department that he or she:

{1} (a) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association;

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

{3} (c) Has passed an examination as provided

in section 71-6108.

Until January 1, 1988, an applicant for licensure as an occupational therapist who has practiced as an occupational therapist for four years immediately preceding the effective date of the Occupational Therapy Practice Act may take the examination to be licensed as an occupational therapist without meeting the requirements for occupational therapists pursuant to subdivisions (1) and (2) of this section.

Residency in this state shall not be a requirement of licensure. A corporation, partnership, or association shall not be licensed as an occupational therapist pursuant to the Occupational Therapy Practice Act.

(2) If an applicant for an initial license files an application for licensure within ninety days prior to the biennial renewal date of the license, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or

(b) Request that a license which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial fee.

Sec. 34. That section 71-6107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6107. (1) An applicant applying for a license as an occupational therapy assistant shall file a written application in the manner and on forms provided by the department, showing to the satisfaction of the department that he or she:

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

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

(3) (c) Has passed an examination as provided

in section 71-6108.

Until January 1, 1988, an applicant for licensure as an occupational therapy assistant who has practiced as an occupational therapy assistant for four years immediately preceding July 10, 1984, may take the examination to be licensed as an occupational therapy assistant without meeting the requirements for occupational therapists pursuant to subdivisions (1) and (2) of this section.

Residency in this state shall not be a requirement of licensure as an occupational therapy assistant. A corporation, partnership, or association shall not be licensed pursuant to the Occupational Therapy Practice Act.

(2) If an applicant for an initial license files an application for licensure within ninety days prior to the biennial renewal date of the license, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or

(b) Request that a license which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial fee.

Sec. 35. That original sections 28-343, 42-106, 71-1,132.13, 71-1,132.37, 71-388, 71-604, 71-605, 71-606, 71-612, 71-615, 71-1723, 71-2033, 71-2035, 71-3702, 71-3703, 71-3704, 71-5311, 71-6106, and 71-6107, Reissue Revised Statutes of Nebraska, 1943, and sections 71-101, 71-2041.02, 71-2045.01, 71-2225 to 71-2230, 71-3705, and 71-4706, Revised Statutes Supplement, 1988, and also sections 71-2209 to 71-2224, Revised Statutes Supplement, 1988, are repealed.

Sec. 36. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.