

AMENDMENTS TO LB1034

Introduced by Health and Human Services.

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

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

5 28-401 As used in the Uniform Controlled Substances Act, unless the
6 context otherwise requires:

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

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

14 (3) Administration means the Drug Enforcement Administration of the
15 United States Department of Justice;

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

23 (5) Counterfeit substance means a controlled substance which, or the
24 container or labeling of which, without authorization, bears the
25 trademark, trade name, or other identifying mark, imprint, number, or
26 device, or any likeness thereof, of a manufacturer, distributor, or
27 dispenser other than the person or persons who in fact manufactured,

1 distributed, or dispensed such substance and which thereby falsely
2 purports or is represented to be the product of, or to have been
3 distributed by, such other manufacturer, distributor, or dispenser;

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

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

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

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

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

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

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

27 (13) Marijuana means all parts of the plant of the genus cannabis,
28 whether growing or not, the seeds thereof, and every compound,
29 manufacture, salt, derivative, mixture, or preparation of such plant or
30 its seeds, but does not include the mature stalks of such plant, hashish,
31 tetrahydrocannabinols extracted or isolated from the plant, fiber

1 produced from such stalks, oil or cake made from the seeds of such plant,
2 any other compound, manufacture, salt, derivative, mixture, or
3 preparation of such mature stalks, the sterilized seed of such plant
4 which is incapable of germination, or cannabidiol contained in a drug
5 product approved by the federal Food and Drug Administration or obtained
6 pursuant to sections 28-463 to 28-468. When the weight of marijuana is
7 referred to in the Uniform Controlled Substances Act, it means its weight
8 at or about the time it is seized or otherwise comes into the possession
9 of law enforcement authorities, whether cured or uncured at that time.
10 When industrial hemp as defined in section 2-5701 is in the possession of
11 a person as authorized under section 2-5701, it is not considered
12 marijuana for purposes of the Uniform Controlled Substances Act;

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

30 (15) Narcotic drug means any of the following, whether produced
31 directly or indirectly by extraction from substances of vegetable origin,

1 independently by means of chemical synthesis, or by a combination of
2 extraction and chemical synthesis: (a) Opium, opium poppy and poppy
3 straw, coca leaves, and opiates; (b) a compound, manufacture, salt,
4 derivative, or preparation of opium, coca leaves, or opiates; or (c) a
5 substance and any compound, manufacture, salt, derivative, or preparation
6 thereof which is chemically equivalent to or identical with any of the
7 substances referred to in subdivisions (a) and (b) of this subdivision,
8 except that the words narcotic drug as used in the Uniform Controlled
9 Substances Act does not include decocainized coca leaves or extracts of
10 coca leaves, which extracts do not contain cocaine or ecgonine, or
11 isoquinoline alkaloids of opium;

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

18 (17) Opium poppy means the plant of the species *Papaver somniferum*
19 L., except the seeds thereof;

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

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

24 (20) Practitioner means a physician, a physician assistant, a
25 dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a
26 certified nurse midwife, a certified registered nurse anesthetist, a
27 nurse practitioner, a scientific investigator, a pharmacy, a hospital, or
28 any other person licensed, registered, or otherwise permitted to
29 distribute, dispense, prescribe, conduct research with respect to, or
30 administer a controlled substance in the course of practice or research
31 in this state, including an emergency medical service as defined in

1 section 38-1207;

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

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

9 (23) State means the State of Nebraska;

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

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

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

20 (27) Hashish or concentrated cannabis means (a) the separated resin,
21 whether crude or purified, obtained from a plant of the genus cannabis or
22 (b) any material, preparation, mixture, compound, or other substance
23 which contains ten percent or more by weight of tetrahydrocannabinols.
24 When resins extracted from industrial hemp as defined in section 2-5701
25 are in the possession of a person as authorized under section 2-5701,
26 they are not considered hashish or concentrated cannabis for purposes of
27 the Uniform Controlled Substances Act;

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

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

10 (30)(a) Controlled substance analogue means a substance (i) the
11 chemical structure of which is substantially similar to the chemical
12 structure of a Schedule I or Schedule II controlled substance as provided
13 in section 28-405 or (ii) which has a stimulant, depressant, analgesic,
14 or hallucinogenic effect on the central nervous system that is
15 substantially similar to or greater than the stimulant, depressant,
16 analgesic, or hallucinogenic effect on the central nervous system of a
17 Schedule I or Schedule II controlled substance as provided in section
18 28-405. A controlled substance analogue shall, to the extent intended for
19 human consumption, be treated as a controlled substance under Schedule I
20 of section 28-405 for purposes of the Uniform Controlled Substances Act;
21 and

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

1 (31) Anabolic steroid means any drug or hormonal substance,
2 chemically and pharmacologically related to testosterone (other than
3 estrogens, progestins, and corticosteroids), that promotes muscle growth
4 and includes any controlled substance in Schedule III(d) of section
5 28-405. Anabolic steroid does not include any anabolic steroid which is
6 expressly intended for administration through implants to cattle or other
7 nonhuman species and has been approved by the Secretary of Health and
8 Human Services for such administration, but if any person prescribes,
9 dispenses, or distributes such a steroid for human use, such person shall
10 be considered to have prescribed, dispensed, or distributed an anabolic
11 steroid within the meaning of this subdivision;

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

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

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

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

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

28 (37) Signature means the name, word, or mark of a person written in
29 his or her own hand with the intent to authenticate a writing or other
30 form of communication or a digital signature which complies with section
31 86-611 or an electronic signature;

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

5 (39) Electronic signature has the definition found in section
6 86-621;

7 (40) Electronic transmission means transmission of information in
8 electronic form. Electronic transmission includes computer-to-computer
9 transmission or computer-to-facsimile transmission;

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

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

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

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

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

1 (b) The name or packaging of the product or substance uses images or
2 labels suggesting that it is a controlled substance or produces effects
3 on the human body that replicate or mimic those produced by a controlled
4 substance;

5 (c) The product or substance is marketed or advertised for a
6 particular use or purpose and the cost of the product or substance is
7 disproportionately higher than other products or substances marketed or
8 advertised for the same or similar use or purpose;

9 (d) The packaging or label on the product or substance contains
10 words or markings that state or suggest that the product or substance is
11 in compliance with state and federal laws regulating controlled
12 substances;

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

16 (f) The owner or person in control of the product or substance makes
17 a verbal or written statement suggesting or implying that the product or
18 substance is a synthetic drug or that consumption of the product or
19 substance will replicate or mimic effects on the human body to those
20 effects commonly produced through use or consumption of a controlled
21 substance;

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

26 (h) The product or substance contains a chemical or chemical
27 compound that does not have a legitimate relationship to the use or
28 purpose claimed by the seller, distributor, packer, or manufacturer of
29 the product or substance or indicated by the product name, appearing on
30 the product's packaging or label or depicted in advertisement of the
31 product or substance.

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

3 28-470 (1) A health professional who is authorized to prescribe or
4 dispense naloxone, if acting with reasonable care, may prescribe,
5 administer, or dispense naloxone to any of the following persons without
6 being subject to administrative action or criminal prosecution:

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

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

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

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

26 (a) Subject to administrative action or criminal prosecution; or

27 (b) Personally liable in any civil action to respond in damages as a
28 result of his or her acts of commission or omission arising out of and in
29 the course of his or her rendering such care or services or arising out
30 of his or her failure to act to provide or arrange for further medical
31 treatment or care for the person who is apparently experiencing an

1 opioid-related overdose, unless the emergency responder caused damage or
2 injury by his or her willful, wanton, or grossly negligent act of
3 commission or omission. This subdivision shall not affect the liability
4 of such emergency medical service organization for the emergency
5 responder's acts of commission or omission.

6 (4) A peace officer who, acting in good faith, obtains naloxone from
7 the peace officer's law enforcement agency and administers the naloxone
8 to a person who is apparently experiencing an opioid-related overdose
9 shall not be:

10 (a) Subject to administrative action or criminal prosecution; or

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

21 (5) For purposes of this section:

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

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

24 (c) Emergency responder means an emergency medical responder, an
25 emergency medical technician, an advanced emergency medical technician,
26 or a paramedic licensed under the Emergency Medical Services Practice Act
27 or practicing pursuant to the EMS Personnel Licensure Interstate Compact;

28 (d) Health professional means a physician, physician assistant,
29 nurse practitioner, or pharmacist licensed under the Uniform
30 Credentialing Act;

31 (e) Law enforcement agency means a police department, a town

1 marshal, the office of sheriff, or the Nebraska State Patrol;

2 (f) Naloxone means naloxone hydrochloride; and

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

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

6 29-2261 (1) Unless it is impractical to do so, when an offender has
7 been convicted of a felony other than murder in the first degree, the
8 court shall not impose sentence without first ordering a presentence
9 investigation of the offender and according due consideration to a
10 written report of such investigation. When an offender has been convicted
11 of murder in the first degree and (a) a jury renders a verdict finding
12 the existence of one or more aggravating circumstances as provided in
13 section 29-2520 or (b)(i) the information contains a notice of
14 aggravation as provided in section 29-1603 and (ii) the offender waives
15 his or her right to a jury determination of the alleged aggravating
16 circumstances, the court shall not commence the sentencing determination
17 proceeding as provided in section 29-2521 without first ordering a
18 presentence investigation of the offender and according due consideration
19 to a written report of such investigation.

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

24 (3) The presentence investigation and report shall include, when
25 available, an analysis of the circumstances attending the commission of
26 the crime, the offender's history of delinquency or criminality, physical
27 and mental condition, family situation and background, economic status,
28 education, occupation, and personal habits, and any other matters that
29 the probation officer deems relevant or the court directs to be included.
30 All local and state police agencies and Department of Correctional
31 Services adult correctional facilities shall furnish to the probation

1 officer copies of such criminal records, in any such case referred to the
2 probation officer by the court of proper jurisdiction, as the probation
3 officer shall require without cost to the court or the probation officer.

4 Such investigation shall also include:

5 (a) Any written statements submitted to the county attorney by a
6 victim; and

7 (b) Any written statements submitted to the probation officer by a
8 victim.

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

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

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

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

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

24 (6)(a) ~~(6)~~ Any presentence report, substance abuse evaluation, or
25 psychiatric examination shall be privileged and shall not be disclosed
26 directly or indirectly to anyone other than a judge; ~~τ~~ probation officers
27 to whom an offender's file is duly transferred; ~~τ~~ the probation
28 administrator or his or her designee; ~~τ~~ alcohol and drug counselors,
29 mental health practitioners, psychiatrists, and psychologists licensed or
30 certified under the Uniform Credentialing Act to conduct substance abuse
31 evaluations and treatment; ~~τ~~ or others entitled by law to receive such

1 information, including personnel and mental health professionals for the
2 Nebraska State Patrol specifically assigned to sex offender registration
3 and community notification for the sole purpose of using such report,
4 evaluation, or examination for assessing risk and for community
5 notification of registered sex offenders.

6 (b) For purposes of this subsection, mental health professional
7 means (i) ~~(a)~~ a practicing physician licensed to practice medicine in
8 this state under the Medicine and Surgery Practice Act, (ii) ~~(b)~~ a
9 practicing psychologist licensed to engage in the practice of psychology
10 in this state as provided in section 38-3111 or as provided under similar
11 provisions of the Psychology Interjurisdictional Compact, or (iii) ~~(c)~~ a
12 practicing mental health professional licensed or certified in this state
13 as provided in the Mental Health Practice Act.

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

1 opportunity for an offender to provide additional information for the
2 court's consideration.

3 (8) If an offender is sentenced to imprisonment, a copy of the
4 report of any presentence investigation, substance abuse evaluation, or
5 psychiatric examination shall be transmitted immediately to the
6 Department of Correctional Services. Upon request, the Board of Parole or
7 the Office of Parole Administration may receive a copy of the report from
8 the department.

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

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

18 38-122 Every initial credential to practice a profession or engage
19 in a business shall be in the form of a document under the name of the
20 department ~~and signed by the director, the Governor, and the officers of~~
21 ~~the appropriate board, if any.~~

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

24 38-131 (1) An applicant for an initial license to practice as a
25 registered nurse, ~~or~~ a licensed practical nurse, a psychologist, an
26 advanced emergency medical technician, an emergency medical technician,
27 or a paramedic or to practice a profession which is authorized to
28 prescribe controlled substances shall be subject to a criminal background
29 check. A criminal background check may also be required for initial
30 licensure or reinstatement of a license governed by the Uniform
31 Credentialing Act if a criminal background check is required by an

1 interstate licensure compact. Except as provided in subsection (3) of
2 this section, the applicant shall submit with the application a full set
3 of fingerprints which shall be forwarded to the Nebraska State Patrol to
4 be submitted to the Federal Bureau of Investigation for a national
5 criminal history record information check. The applicant shall authorize
6 release of the results of the national criminal history record
7 information check to the department. The applicant shall pay the actual
8 cost of the fingerprinting and criminal background check.

9 (2) This section shall not apply to a dentist who is an applicant
10 for a dental locum tenens under section 38-1122, to a physician or
11 osteopathic physician who is an applicant for a physician locum tenens
12 under section 38-2036, or to a veterinarian who is an applicant for a
13 veterinarian locum tenens under section 38-3335.

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

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

22 38-319 The department, with the recommendation of the board, may
23 issue a license based on licensure in another jurisdiction to an
24 individual who (1) meets the requirements of the Alcohol and Drug
25 Counseling Practice Act, (2) meets or substantially equivalent
26 requirements as determined by the department, with the recommendation of
27 the board, or (3) holds a license or certification that is current in
28 another jurisdiction that authorizes the applicant to provide alcohol and
29 drug counseling, has at least two hundred seventy hours of alcohol and
30 drug counseling education, has at least three years of full-time alcohol
31 and drug counseling practice following initial licensure or certification

1 in the other jurisdiction, and has passed an alcohol and drug counseling
2 examination. An applicant who is a military spouse may apply for a
3 temporary license as provided in section 38-129.01.

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

6 38-321 ~~(1)~~—The department, with the recommendation of the board,
7 shall adopt and promulgate rules and regulations to administer the
8 Alcohol and Drug Counseling Practice Act, including rules and regulations
9 governing:

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

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

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

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

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

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

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

29 38-1201 Sections 38-1201 to 38-1237 and sections 10, 12, 13, 14, 16,
30 17, and 22 of this act shall be known and may be cited as the Emergency
31 Medical Services Practice Act.

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

3 38-1204 For purposes of the Emergency Medical Services Practice Act
4 and elsewhere in the Uniform Credentialing Act, unless the context
5 otherwise requires, the definitions found in sections 38-1205 to 38-1214
6 and sections 10, 12, 13, 14, 16, and 17 of this act apply.

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

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

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

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

30 Sec. 13. Emergency medical technician practice of out-of-hospital
31 emergency medical care means care provided in accordance with the

1 knowledge and skill acquired through successful completion of an approved
2 program for an emergency medical technician. Such care includes, but is
3 not limited to, (1) all of the acts that an emergency medical responder
4 can perform, and (2) simple invasive interventions, management and
5 transportation of individuals, and nonvisualized intubation.

6 Sec. 14. Emergency medical technician-intermediate practice of out-
7 of-hospital emergency medical care means care provided in accordance with
8 the knowledge and skill acquired through successful completion of an
9 approved program for an emergency medical technician-intermediate. Such
10 care includes, but is not limited to, (1) all of the acts that an
11 advanced emergency medical technician can perform, and (2) visualized
12 intubation. This section terminates on December 31, 2025.

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

15 38-1208 Out-of-hospital emergency care provider includes all
16 licensure classifications of emergency care providers established
17 pursuant to the Emergency Medical Services Practice Act. Prior to
18 December 31, 2025, emergency care provider includes out-of-hospital
19 advanced emergency medical technician, emergency medical responder,
20 emergency medical technician, emergency medical technician-intermediate,
21 and paramedic. On and after December 31, 2025, out-of-hospital emergency
22 care provider includes advanced emergency medical technician, emergency
23 medical responder, emergency medical technician, and paramedic.

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

30 Sec. 17. Practice of out-of-hospital emergency medical care means
31 the performance of any act using judgment or skill based upon the United

1 States Department of Transportation education standards and guideline
2 training requirements, the National Highway Traffic Safety
3 Administration's National Emergency Medical Service Scope of Practice
4 Model and National Emergency Medical Services Education Standards, and
5 permitted practices and procedures for the level of licensure listed in
6 section 38-1217. Such acts include the identification of and intervention
7 in actual or potential health problems of individuals and are directed
8 toward addressing such problems based on actual or perceived traumatic or
9 medical circumstances prior to or during transportation to a hospital or
10 for routine transportation between health care facilities or services.
11 Such acts are provided under therapeutic regimens ordered by a physician
12 medical director or through protocols as provided by the Emergency
13 Medical Services Practice Act.

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

16 38-1215 (1) The board shall have seventeen members appointed by the
17 Governor with the approval of a majority of the Legislature. The
18 appointees may begin to serve immediately following appointment and prior
19 to approval by the Legislature.

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

28 (b) Three of the members shall be qualified physicians actively
29 involved in emergency medical care. At least one of the physician members
30 shall be a board-certified emergency physician, and at least one of the
31 physician members shall specialize in pediatrics.

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

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

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

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

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

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

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

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

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

22 38-1216 In addition to any other responsibilities prescribed by the
23 Emergency Medical Services Practice Act, the board shall:

24 (1) Promote the dissemination of public information and education
25 programs to inform the public about out-of-hospital emergency medical
26 care and other out-of-hospital medical information, including appropriate
27 methods of medical self-help, first aid, and the availability of out-of-
28 hospital emergency medical services training programs in the state;

29 (2) Provide for the collection of information for evaluation of the
30 availability and quality of out-of-hospital emergency medical care,
31 evaluate the availability and quality of out-of-hospital emergency

1 medical care, and serve as a focal point for discussion of the provision
2 of out-of-hospital emergency medical care;

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

6 ~~(3) (4) Establish model procedures for patient management in out-of-~~
7 ~~hospital medical emergencies that do not limit the authority of law~~
8 ~~enforcement and fire protection personnel to manage the scene during an~~
9 ~~out-of-hospital medical emergency;~~

10 ~~(4) (5) Not less than once each five years, undertake a review and~~
11 ~~evaluation of the act and its implementation together with a review of~~
12 ~~the out-of-hospital emergency medical care needs of the citizens of the~~
13 ~~State of Nebraska and submit electronically a report to the Legislature~~
14 ~~with any recommendations which it may have; and~~

15 ~~(5) (6) Identify communication needs of emergency medical services~~
16 ~~and make recommendations for development of a communications plan for a~~
17 ~~communications network for out-of-hospital emergency care providers and~~
18 ~~emergency medical services.~~

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

21 38-1217 The board shall adopt rules and regulations necessary to:

22 (1) Create licensure requirements for advanced emergency medical
23 technicians, emergency medical responders, emergency medical technicians,
24 and paramedics and, until December 31, 2025, create renewal requirements
25 for emergency medical technicians-intermediate. ~~(1)(a) For licenses~~
26 issued prior to September 1, 2010, create the following licensure
27 classifications of out-of-hospital emergency care providers: (i) First
28 responder; (ii) emergency medical technician; (iii) emergency medical
29 technician-intermediate; and (iv) emergency medical technician-paramedic;
30 and (b) for licenses issued on or after September 1, 2010, create the
31 following licensure classifications of out-of-hospital emergency care

1 providers: ~~(i) Emergency medical responder; (ii) emergency medical~~
2 ~~technician; (iii) advanced emergency medical technician; and (iv)~~
3 ~~paramedic.~~ The rules and regulations creating the classifications shall
4 include all the practices and procedures authorized for each
5 classification, training and testing requirements, renewal and
6 reinstatement requirements, and other criteria and qualifications for
7 each classification determined to be necessary for protection of public
8 health and safety. A person holding a license issued prior to September
9 1, 2010, shall be authorized to practice in accordance with the laws,
10 rules, and regulations governing the license for the term of the license;

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

31 (3) Provide for temporary licensure of an out-of-hospital emergency

1 care provider relocating to Nebraska, if such out-of-hospital emergency
2 care provider is lawfully authorized to practice in another state that
3 has adopted the licensing standards of the EMS Personnel Licensure
4 Interstate Compact. Such temporary licensure shall be valid for one year
5 or until a license is issued and shall not be subject to renewal. The
6 requirements of this subdivision do not apply to a temporary license
7 issued as provided in section 38-129.01;

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

15 (5) ~~(4)~~ Authorize emergency medical services to provide differing
16 practices and procedures depending upon the qualifications of out-of-
17 hospital emergency care providers available at the time of service
18 delivery. No emergency medical service shall be licensed to provide
19 practices or procedures without the use of personnel licensed to provide
20 the practices or procedures;

21 (6) ~~(5)~~ Authorize out-of-hospital emergency care providers to
22 perform any practice or procedure which they are authorized to perform
23 with an emergency medical service other than the service with which they
24 are affiliated when requested by the other service and when the patient
25 for whom they are to render services is in danger of loss of life;

26 (7) ~~(6)~~ Provide for the approval of training agencies and establish
27 minimum standards for services provided by training agencies;

28 (8) ~~(7)~~ Provide for the minimum qualifications of a physician
29 medical director in addition to the licensure required by section
30 38-1212;

31 (9) ~~(8)~~ Provide for the use of physician medical directors,

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

8 ~~(10)~~ (9) Establish criteria for approval of organizations issuing
9 cardiopulmonary resuscitation certification which shall include criteria
10 for instructors, establishment of certification periods and minimum
11 curricula, and other aspects of training and certification;

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

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

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

29 (13) Establish criteria for emergency medical technicians-
30 intermediate, advanced emergency medical technicians, emergency medical
31 technicians ~~technicians-paramedic~~, or paramedics performing activities

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

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

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

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

27 38-1218 (1) ~~The Legislature adopts all parts of the United States~~
28 ~~Department of Transportation curricula, including appendices, and skills~~
29 ~~as the training requirements and permitted practices and procedures for~~
30 ~~the licensure classifications listed in subdivision (1)(a) of section~~
31 ~~38-1217 until modified by the board by rule and regulation. The~~

1 ~~Legislature adopts the United States Department of Transportation~~
2 ~~National Emergency Medical Services Education Standards and the National~~
3 ~~Emergency Medical Services Scope of Practice for the licensure~~
4 ~~classifications listed in subdivision (1)(b) of section 38-1217 until~~
5 ~~modified by the board by rule and regulation.~~ The board may approve
6 curricula for the licensure classifications listed in the Emergency
7 Medical Services Practice Act subdivision (1) of section 38-1217.

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

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

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

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

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

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

28 Sec. 22. The board shall review decisions of the Interstate
29 Commission for Emergency Medical Services Personnel Practice established
30 pursuant to the EMS Personnel Licensure Interstate Compact. Upon approval
31 by the commission of any action that will have the result of increasing

1 the cost to the state for membership in the compact, the board may
2 recommend to the Legislature that Nebraska withdraw from the compact.

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

5 38-1219 The department, with the recommendation of the board, shall
6 adopt and promulgate rules and regulations necessary to:

7 (1) Administer the Emergency Medical Services Practice Act;

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

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

22 ~~(3) (4) Provide for the inspection, review, and termination of~~
23 ~~approval of training agencies. All training for licensure shall be~~
24 ~~provided through an approved training agency; and -~~

25 (4) Provide for the inspection, review, and termination of basic
26 life support emergency medical services and advanced life support
27 emergency medical services.

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

30 38-1221 ~~(1)~~—To be eligible for a license under the Emergency
31 Medical Services Practice Act, an individual shall have attained the age

1 of eighteen years and met the requirements established in accordance with
2 subdivision ~~(1), (2), or (15)~~ of section 38-1217.

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

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

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

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

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

27 (3) For purposes of this section, licensed health care practitioner
28 means (a) a physician medical director or physician surrogate for
29 purposes of supervision of an out-of-hospital emergency care provider for
30 an emergency medical service or (b) a physician, a physician assistant,
31 or an advance practice registered nurse for purposes of supervision of an

1 out-of-hospital emergency care provider for a hospital or health clinic.
2 A registered nurse may direct an out-of-hospital emergency care provider
3 in a hospital or health clinic.

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

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

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

27 (2) Patient data received by the department shall be confidential
28 with release only (a) in aggregate data reports created by the department
29 on a periodic basis or at the request of an individual, (b) as case-
30 specific data to approved researchers for specific research projects, (c)
31 as protected health information to a public health authority, as such

1 terms are defined under the federal Health Insurance Portability and
2 Accountability Act of 1996, as such act existed on January 1, 2018 ~~2007~~,
3 and (d) as protected health information, as defined under the federal
4 Health Insurance Portability and Accountability Act of 1996, as such act
5 existed on January 1, 2018 ~~2007~~, to an emergency medical service, to an
6 out-of-hospital emergency care provider, or to a licensed health care
7 facility for purposes of treatment. A record may be shared with the
8 emergency medical service or out-of-hospital emergency care provider that
9 reported that specific record. Approved researchers shall maintain the
10 confidentiality of the data, and researchers shall be approved in the
11 same manner as described in section 81-666. Aggregate reports shall be
12 public documents.

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

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

19 38-1229 The department, ~~with the recommendation of the board,~~ may
20 issue a license to any individual who has a current certificate from the
21 National Registry of Emergency Medical Technicians. ~~The level of such~~
22 ~~licensure shall be determined by the board.~~

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

25 38-1232 (1) No out-of-hospital emergency care provider, physician
26 assistant, registered nurse, or licensed practical nurse who provides
27 public emergency care shall be liable in any civil action to respond in
28 damages as a result of his or her acts of commission or omission arising
29 out of and in the course of his or her rendering in good faith any such
30 care. Nothing in this subsection shall be deemed to grant any such
31 immunity for liability arising out of the operation of any motor vehicle,

1 aircraft, or boat or while such person was impaired by alcoholic liquor
2 or any controlled substance enumerated in section 28-405 in connection
3 with such care, nor shall immunity apply to any person causing damage or
4 injury by his or her willful, wanton, or grossly negligent act of
5 commission or omission.

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

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

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

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

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

3 38-2025 The following classes of persons shall not be construed to
4 be engaged in the unauthorized practice of medicine:

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

6 (2) Persons administering ordinary household remedies;

7 (3) The members of any church practicing its religious tenets,
8 except that they shall not prescribe or administer drugs or medicines,
9 perform surgical or physical operations, nor assume the title of or hold
10 themselves out to be physicians, and such members shall not be exempt
11 from the quarantine laws of this state;

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

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

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

28 (7) Physicians who are licensed in good standing to practice
29 medicine in another state but who, from such other state, order
30 diagnostic or therapeutic services on an irregular or occasional basis,
31 to be provided to an individual in this state, if such physicians do not

1 maintain and are not furnished for regular use within this state any
2 office or other place for the rendering of professional services or the
3 receipt of calls;

4 (8) Physicians who are licensed in good standing to practice
5 medicine in another state and who, on an irregular and occasional basis,
6 are granted temporary hospital privileges to practice medicine and
7 surgery at a hospital or other medical facility licensed in this state;

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

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

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

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

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

20 (14) Podiatrists practicing their profession when licensed and
21 practicing under and in accordance with the Podiatry Practice Act;

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

25 (16) Advanced practice registered nurses practicing in their
26 clinical specialty areas when licensed under the Advanced Practice
27 Registered Nurse Practice Act and practicing under and in accordance with
28 their respective practice acts;

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

31 (18) Persons licensed or certified under the laws of this state to

1 practice a limited field of the healing art, not specifically named in
2 this section, when confining themselves strictly to the field for which
3 they are licensed or certified, not assuming the title of physician,
4 surgeon, or physician and surgeon, and not professing or holding
5 themselves out as qualified to prescribe drugs in any form or to perform
6 operative surgery;

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

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

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

29 Sec. 31. Section 38-2104, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 38-2104 (1) Approved educational program means a program of

1 education and training accredited by an agency listed in subsection (2)
2 of this section or approved by the board. Such approval may be based on
3 the program's accreditation by an accrediting agency with requirements
4 similar to an agency listed in subsection (2) of this section or on
5 standards established by the board in the manner and form provided in
6 section 38-133.

7 (2) Approved educational program includes a program of education and
8 training accredited by:

9 (a) The Commission on Accreditation for Marriage and Family Therapy
10 Education;

11 (b) The Council for Accreditation of Counseling and Related
12 Educational Programs;

13 (c) The Council on Rehabilitation Education;

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

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

18 Sec. 32. Section 38-2112, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 38-2112 Consultation means a professional collaborative relationship
21 between a licensed mental health practitioner and a consultant who is a
22 psychologist licensed to engage in the practice of psychology in this
23 state as provided in section 38-3111 or as provided in similar provisions
24 of the Psychology Interjurisdictional Compact, a qualified physician, or
25 a licensed independent mental health practitioner in which (1) the
26 consultant makes a diagnosis based on information supplied by the
27 licensed mental health practitioner and any additional assessment deemed
28 necessary by the consultant and (2) the consultant and the licensed
29 mental health practitioner jointly develop a treatment plan which
30 indicates the responsibility of each professional for implementing
31 elements of the plan, updating the plan, and assessing the client's

1 progress.

2 Sec. 33. Section 38-2115, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 38-2115 (1) Mental health practice means the provision of treatment,
5 assessment, psychotherapy, counseling, or equivalent activities to
6 individuals, couples, families, or groups for behavioral, cognitive,
7 social, mental, or emotional disorders, including interpersonal or
8 personal situations.

9 (2) Mental health practice does not include:

10 (a) The practice of psychology or medicine;

11 (b) Prescribing drugs or electroconvulsive therapy;

12 (c) Treating physical disease, injury, or deformity;

13 (d) Diagnosing major mental illness or disorder except in
14 consultation with a qualified physician, a psychologist licensed to
15 engage in the practice of psychology in this state as provided in section
16 38-3111 or as provided in similar provisions of the Psychology
17 Interjurisdictional Compact, or a licensed independent mental health
18 practitioner;

19 (e) Measuring personality or intelligence for the purpose of
20 diagnosis or treatment planning;

21 (f) Using psychotherapy with individuals suspected of having major
22 mental or emotional disorders except in consultation with a qualified
23 physician, a licensed psychologist, or a licensed independent mental
24 health practitioner; or

25 (g) Using psychotherapy to treat the concomitants of organic illness
26 except in consultation with a qualified physician or licensed
27 psychologist.

28 (3) Mental health practice includes the initial assessment of
29 organic mental or emotional disorders for the purpose of referral or
30 consultation.

31 (4) Nothing in sections 38-2114, 38-2118, and 38-2119 shall be

1 deemed to constitute authorization to engage in activities beyond those
2 described in this section. Persons certified under the Mental Health
3 Practice Act but not licensed under section 38-2122 shall not engage in
4 mental health practice.

5 Sec. 34. Section 38-2117, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 38-2117 Mental health program means an approved educational program
8 in a field such as, but not limited to, social work, professional
9 counseling, marriage and family therapy, human development, psychology,
10 or family relations, the content of which contains an emphasis on
11 therapeutic mental health and course work in psychotherapy and the
12 assessment of mental disorders.

13 Sec. 35. Section 38-2122, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 38-2122 A person shall be qualified to be a licensed mental health
16 practitioner if he or she:

17 (1) Has received a master's ~~or doctorate~~ degree, a doctoral degree,
18 or the equivalent of a master's degree, as determined by the board, that
19 consists of course work and training which was primarily therapeutic
20 mental health in content and included a practicum or internship and was
21 from an approved educational program. Practicums or internships completed
22 after September 1, 1995, must include a minimum of three hundred clock
23 hours of direct client contact under the supervision of a qualified
24 physician, a licensed psychologist, or a licensed mental health
25 practitioner;

26 (2) Has successfully completed three thousand hours of supervised
27 experience in mental health practice of which fifteen hundred hours were
28 in direct client contact in a setting where mental health services were
29 being offered and the remaining fifteen hundred hours included, but were
30 not limited to, review of client records, case conferences, direct
31 observation, and video observation. For purposes of this subdivision,

1 supervised means monitored by a qualified physician, a licensed clinical
2 psychologist, or a certified master social worker, certified professional
3 counselor, or marriage and family therapist qualified for certification
4 on September 1, 1994, for any hours completed before such date or by a
5 qualified physician, a psychologist licensed to engage in the practice of
6 psychology, or a licensed mental health practitioner for any hours
7 completed after such date, including evaluative face-to-face contact for
8 a minimum of one hour per week. Such three thousand hours shall be
9 accumulated after completion of the master's degree, doctoral degree, or
10 equivalent of the master's or doctorate degree and during the five years
11 immediately preceding the application for licensure; and

12 (3) Has satisfactorily passed an examination approved by the board.
13 An individual who by reason of educational background is eligible for
14 certification as a certified master social worker, a certified
15 professional counselor, or a certified marriage and family therapist
16 shall take and pass a certification examination approved by the board
17 before becoming licensed as a mental health practitioner.

18 Sec. 36. Section 38-2123, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 38-2123 (1) A person who needs to obtain the required three thousand
21 hours of supervised experience in mental health practice as specified in
22 section 38-2122 to qualify for a mental health practitioner license shall
23 obtain a provisional mental health practitioner license. To qualify for a
24 provisional mental health practitioner license, such person shall:

25 (a) Have a master's or doctorate degree, a doctoral degree, or the
26 equivalent of a master's degree, as determined by the board, that
27 consists of course work and training which was primarily therapeutic
28 mental health in content and included a practicum or internship and was
29 from a mental health an approved educational program as specified in such
30 section 38-2122;

31 (b) Apply prior to earning the three thousand hours of supervised

1 experience; and

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

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

7 (3) (2) A provisional mental health practitioner license shall
8 expire upon receipt of licensure as a mental health practitioner or five
9 years after the date of issuance, whichever comes first.

10 (4) (3) A person who holds a provisional mental health practitioner
11 license shall inform all clients that he or she holds a provisional
12 license and is practicing mental health under supervision and shall
13 identify the supervisor. Failure to make such disclosure is a ground for
14 discipline as set forth in section 38-2139.

15 Sec. 37. Section 38-2124, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 38-2124 (1) No person shall hold himself or herself out as an
18 independent mental health practitioner unless he or she is licensed as
19 such by the department. A person shall be qualified to be a licensed
20 independent mental health practitioner if he or she:

21 (a)(i)(A) Graduated with a master's or doctoral degree from an
22 educational program which is accredited, at the time of graduation or
23 within four years after graduation, by the Council for Accreditation of
24 Counseling and Related Educational Programs, the Commission on
25 Accreditation for Marriage and Family Therapy Education, or the Council
26 on Social Work Education or (B) graduated with a master's or doctoral
27 degree from an educational program deemed by the board to be equivalent
28 in didactic content and supervised clinical experience to an accredited
29 program;

30 (ii)(A) Is licensed as a licensed mental health practitioner or (B)
31 is licensed as a provisional mental health practitioner and has

1 satisfactorily passed an examination approved by the board pursuant to
2 subdivision (3) of section 38-2122; and

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

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

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

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

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

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

26 Sec. 38. Section 38-2125, Revised Statutes Supplement, 2017, is
27 amended to read:

28 38-2125 The department, with the recommendation of the board, may
29 issue a license based on licensure in another jurisdiction to an
30 individual who (1) meets the licensure requirements of the Mental Health
31 Practice Act or substantially equivalent requirements as determined by

1 the department, with the recommendation of the board, or (2) has been in
2 active practice in the appropriate discipline for at least five years
3 following initial licensure or certification in another jurisdiction and
4 has passed the Nebraska jurisprudence examination. An applicant for a
5 license who is a military spouse may apply for a temporary license as
6 provided in section 38-129.01.

7 Sec. 39. Section 38-2518, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 38-2518 (1) An applicant applying for a license as an occupational
10 therapist shall show to the satisfaction of the department that he or
11 she:

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

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

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

23 (2) In the case of an applicant who has been trained as an
24 occupational therapist in a foreign country, the applicant shall:

25 (a) Present documentation of completion of an educational program in
26 occupational therapy that is substantially equivalent to an approved
27 program accredited by the Accreditation Council for Occupational Therapy
28 Education or by an equivalent accrediting agency as determined by the
29 board;

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

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

1 ~~(3)~~ ~~(2)~~ Residency in this state shall not be a requirement of
2 licensure. A corporation, partnership, limited liability company, or
3 association shall not be licensed as an occupational therapist pursuant
4 to the Occupational Therapy Practice Act.

5 Sec. 40. Section 38-2519, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 38-2519 (1) An applicant applying for a license as an occupational
8 therapy assistant shall show to the satisfaction of the department that
9 he or she:

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

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

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

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

23 ~~(a) Present documentation of completion of an educational program~~
24 ~~for occupational therapy assistants that is substantially equivalent to~~
25 ~~an approved program accredited by the Accreditation Council for~~
26 ~~Occupational Therapy Education or by an equivalent accrediting agency as~~
27 ~~determined by the board;~~

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

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

30 ~~(3)~~ ~~(2)~~ Residency in this state shall not be a requirement of
31 licensure as an occupational therapy assistant. A corporation,

1 partnership, limited liability company, or association shall not be
2 licensed as an occupational therapy assistant pursuant to the
3 Occupational Therapy Practice Act.

4 Sec. 41. Section 38-2521, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 38-2521 The department, with the recommendation of the board, may
7 waive continuing competency requirements, in part or in total, for any
8 two-year licensing period when a licensee submits documentation that
9 circumstances beyond his or her control prevented completion of such
10 requirements as provided in section 38-146. In addition to circumstances
11 determined by the department to be beyond the licensee's control pursuant
12 to such section, such circumstances shall include situations in which:

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

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

19 (3) The licensee has successfully completed two or more semester
20 hours of formal credit instruction biennially offered by a ~~an~~ accredited
21 school or college approved by the board which contributes to meeting the
22 requirements of an advanced degree in a postgraduate program relating to
23 occupational therapy.

24 Sec. 42. Section 38-2826.01, Reissue Revised Statutes of Nebraska,
25 is amended to read:

26 38-2826.01 Long-term care facility means an intermediate care
27 facility, an intermediate care facility for persons with developmental
28 disabilities, a long-term care hospital, a mental health substance use
29 treatment center, a nursing facility, or a skilled nursing facility, as
30 such terms are defined in the Health Care Facility Licensure Act.

31 Sec. 43. Section 38-3101, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 38-3101 Sections 38-3101 to 38-3132 and section 45 of this act shall
3 be known and may be cited as the Psychology Practice Act.

4 Sec. 44. Section 38-3111, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 38-3111 (1) Unless otherwise expressly stated, references to
7 licensed psychologists in the Nebraska Mental Health Commitment Act, in
8 the Psychology Practice Act, in the Sex Offender Commitment Act, and in
9 section 44-513 means only psychologists licensed to practice psychology
10 in this state under section 38-3114 or under similar provisions of the
11 Psychology Interjurisdictional Compact and does not mean persons holding
12 a special license under section 38-3116 or holding a provisional license
13 under the Psychology Practice Act.

14 (2) Any reference to a person certified to practice clinical
15 psychology under the law in effect immediately prior to September 1,
16 1994, and any equivalent reference under the law of another jurisdiction,
17 including, but not limited to, certified clinical psychologist, health
18 care practitioner in psychology, or certified health care provider, shall
19 be construed to refer to a psychologist licensed under the Uniform
20 Credentialing Act except for persons licensed under section 38-3116 or
21 holding a provisional license under the Psychology Practice Act.

22 Sec. 45. The chairperson of the board or his or her designee shall
23 serve as the administrator of the Psychology Interjurisdictional Compact
24 for the State of Nebraska. The administrator shall give notice of
25 withdrawal to the executive heads of all other party states within thirty
26 days after the effective date of any statute repealing the compact
27 enacted by the Legislature pursuant to Article XIII of the compact.

28 Sec. 46. Section 44-772, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 44-772 Substance abuse treatment center shall mean an institution
31 licensed as a substance abuse treatment center by the Department of

1 Health and Human Services ~~and defined in section 71-430~~, which provides a
2 program for the inpatient or outpatient treatment of alcoholism pursuant
3 to a written treatment plan approved and monitored by a physician and
4 which is affiliated with a hospital under a contractual agreement with an
5 established system for patient referral.

6 Sec. 47. Section 44-792, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 44-792 For purposes of sections 44-791 to 44-795:

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

22 (2) Mental health condition means any condition or disorder
23 involving mental illness that falls under any of the diagnostic
24 categories listed in the Mental Disorders Section of the International
25 Classification of Disease;

26 (3) Mental health professional means (a) a practicing physician
27 licensed to practice medicine in this state under the Medicine and
28 Surgery Practice Act, (b) a practicing psychologist licensed to engage in
29 the practice of psychology in this state as provided in section 38-3111
30 or as provided in similar provisions of the Psychology
31 Interjurisdictional Compact, or (c) a practicing mental health

1 professional licensed or certified in this state as provided in the
2 Mental Health Practice Act;

3 (4) Rate, term, or condition means lifetime limits, annual payment
4 limits, and inpatient or outpatient service limits. Rate, term, or
5 condition does not include any deductibles, copayments, or coinsurance;
6 and

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

11 (b) Serious mental illness means, on and after January 1, 2002, any
12 mental health condition that current medical science affirms is caused by
13 a biological disorder of the brain and that substantially limits the life
14 activities of the person with the serious mental illness. Serious mental
15 illness includes, but is not limited to (i) schizophrenia, (ii)
16 schizoaffective disorder, (iii) delusional disorder, (iv) bipolar
17 affective disorder, (v) major depression, and (vi) obsessive compulsive
18 disorder.

19 Sec. 48. Section 69-2429, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 69-2429 For purposes of the Concealed Handgun Permit Act:

22 (1) Concealed handgun means the handgun is totally hidden from view.
23 If any part of the handgun is capable of being seen, it is not a
24 concealed handgun;

25 (2) Emergency services personnel means a volunteer or paid
26 firefighter or rescue squad member or a person licensed to provide
27 emergency medical services pursuant to the Emergency Medical Services
28 Practice Act or authorized to provide emergency medical services pursuant
29 to the EMS Personnel Licensure Interstate Compact;

30 (3) Handgun means any firearm with a barrel less than sixteen inches
31 in length or any firearm designed to be held and fired by the use of a

1 single hand;

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

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

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

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

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

22 Sec. 49. Section 71-401, Revised Statutes Supplement, 2017, is
23 amended to read:

24 71-401 Sections 71-401 to 71-475 and sections 53 and 55 of this act
25 shall be known and may be cited as the Health Care Facility Licensure
26 Act.

27 Sec. 50. Section 71-403, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 71-403 For purposes of the Health Care Facility Licensure Act,
30 unless the context otherwise requires, the definitions found in sections
31 71-404 to 71-431 and section 53 of this act shall apply.

1 Sec. 51. Section 71-413, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 71-413 Health care facility means an ambulatory surgical center, an
4 assisted-living facility, a center or group home for the developmentally
5 disabled, a critical access hospital, a general acute hospital, a health
6 clinic, a hospital, an intermediate care facility, an intermediate care
7 facility for persons with developmental disabilities, a long-term care
8 hospital, a mental health substance use treatment center, a nursing
9 facility, a pharmacy, a psychiatric or mental hospital, a public health
10 clinic, a rehabilitation hospital, or a skilled nursing facility,~~or a~~
11 ~~substance abuse treatment center.~~

12 Sec. 52. Section 71-423, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 71-423 Mental health substance use treatment center means a facility
15 where shelter, food, and counseling, supervision, diagnosis, treatment,
16 care, rehabilitation, assessment, or related services professionally
17 directed are provided for a period of more than twenty-four consecutive
18 hours to persons residing at such facility who have a mental illness
19 ~~disease, disorder,~~ or substance use disorder or both, with the intention
20 of reducing or ameliorating the disorder or disorders or the effects of
21 the disorder or disorders disability.

22 Sec. 53. Mental illness means a wide range of mental health
23 disorders that affect mood, thinking, and behavior and can result in
24 significantly impaired judgment, behavior, capacity to recognize reality,
25 or ability to address basic life necessities and requires care and
26 treatment for health, safety, or recovery of the individual or for the
27 safety of others.

28 Sec. 54. Section 71-430, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 71-430 Substance use disorder means a medical illness caused by
31 repeat misuse of a substance or substances, characterized by clinically

1 significant impairments in health, social function, and impaired control
2 over substance use and diagnosed through assessing cognitive, behavioral,
3 and psychological symptoms. Substance use disorders range from mild to
4 severe and from temporary to chronic.

5 ~~(1) Substance abuse treatment center means a facility, including any~~
6 ~~private dwelling, where shelter, food, and care, treatment, maintenance,~~
7 ~~or related services are provided in a group setting to persons who are~~
8 ~~substance abusers.~~

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

13 ~~(3) For purposes of this section:~~

14 ~~(a) Substance abuse means the abuse of substances which have~~
15 ~~significant mood-changing or perception-changing capacities, which are~~
16 ~~likely to be physiologically or psychologically addictive, and the~~
17 ~~continued use of which may result in negative social consequences; and~~

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

20 Sec. 55. A health care facility applying for a license as a mental
21 health substance use treatment center shall designate whether the license
22 is to be issued to provide services for mental health disorders, for
23 substance use disorders, or for both mental health and substance use
24 disorders. A license issued to provide services for mental health
25 disorders permits the facility to treat persons whose primary need is
26 treatment for mental health disorders. A license issued to provide
27 services for substance use disorders permits the facility to treat
28 persons whose primary need is treatment for substance use disorders. A
29 license issued to provide services for both mental health and substance
30 use disorders permits the facility to treat persons with mental health
31 disorders, substance use disorders, or both mental health disorders and

1 substance use disorders.

2 Sec. 56. Section 71-507, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 71-507 For purposes of sections 71-507 to 71-513:

5 (1) Alternate facility means a facility other than a health care
6 facility that receives a patient transported to the facility by an
7 emergency services provider;

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

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

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

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

26 (6) Funeral establishment means a business licensed under section
27 38-1419;

28 (7) Health care facility has the meaning found in sections 71-419,
29 71-420, 71-424, and 71-429 or any facility that receives patients of
30 emergencies who are transported to the facility by emergency services
31 providers;

1 (8) Infectious disease or condition means hepatitis B, hepatitis C,
2 meningococcal meningitis, active pulmonary tuberculosis, human
3 immunodeficiency virus, diphtheria, plague, hemorrhagic fevers, rabies,
4 and such other diseases as the department may by rule and regulation
5 specify;

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

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

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

15 (12) Public safety official means a sheriff, a deputy sheriff, a
16 police officer, a state highway patrol officer, a paid or volunteer
17 firefighter, a school district employee, and any civilian law enforcement
18 employee or volunteer performing his or her duties, other than those as
19 an emergency services provider;

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

24 (14) Significant exposure means a situation in which the body
25 fluids, including blood, saliva, urine, respiratory secretions, or feces,
26 of a patient or individual have entered the body of an emergency services
27 provider or public safety official through a body opening including the
28 mouth or nose, a mucous membrane, or a break in skin from cuts or
29 abrasions, from a contaminated needlestick or scalpel, from intimate
30 respiratory contact, or through any other situation when the patient's or
31 individual's body fluids may have entered the emergency services

1 provider's or public safety official's body or when an airborne pathogen
2 may have been transmitted from the patient or individual to the emergency
3 services provider or public safety official; and

4 (15) Significant exposure report form means the form used by the
5 emergency services provider to document information necessary for
6 notification of significant exposure to an infectious disease or
7 condition.

8 Sec. 57. Section 71-906, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 71-906 Mental health professional means a person licensed to
11 practice medicine and surgery or psychology in this state under the
12 Psychology Interjurisdictional Compact or the Uniform Credentialing Act
13 or an advanced practice registered nurse licensed under the Advanced
14 Practice Registered Nurse Practice Act who has proof of current
15 certification in a psychiatric or mental health specialty.

16 Sec. 58. Section 71-1908, Revised Statutes Cumulative Supplement,
17 2016, is amended to read:

18 71-1908 (1) Sections 71-1908 to 71-1923 and section 60 of this act
19 shall be known and may be cited as the Child Care Licensing Act.

20 (2) The Legislature finds that there is a present and growing need
21 for quality child care programs and facilities. There is a need to
22 establish and maintain licensure of persons providing such programs to
23 ensure that such persons are competent and are using safe and adequate
24 facilities. The Legislature further finds and declares that the
25 development and supervision of programs are a matter of statewide concern
26 and should be dealt with uniformly on the state and local levels. There
27 is a need for cooperation among the various state and local agencies
28 which impose standards on licensees, and there should be one agency which
29 coordinates the enforcement of such standards and informs the Legislature
30 about cooperation among the various agencies.

31 Sec. 59. Section 71-1913, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 71-1913 (1) The department may request the State Fire Marshal to
3 inspect any program for fire safety pursuant to section 81-502. The State
4 Fire Marshal shall immediately notify the department whenever he or she
5 delegates authority for such inspections under such section.

6 (2) The department may investigate all facilities and programs of
7 licensed providers of child care programs as defined in section 71-1910
8 or applicants for licenses to provide such programs to determine if the
9 place or places to be covered by such licenses meet standards of
10 sanitation and physical well-being set by the department for the care and
11 protection of the child or children who may be placed in such facilities
12 and programs. The department may delegate this authority to qualified
13 local environmental health personnel.

14 (3) This section does not apply to school-age child care programs
15 which are licensed pursuant to section 60 of this act.

16 Sec. 60. (1) For purposes of licensing a school-age child care
17 program, a school-age child care program which operates in an accredited
18 or approved school under the rules and regulations of the State
19 Department of Education shall be deemed to meet the standards of the
20 State Department of Education for the care and protection of children.
21 The Department of Health and Human Services shall provide for inspections
22 of school-age child care programs to determine compliance with this
23 section.

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

27 Sec. 61. Section 71-2411, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 71-2411 For purposes of the Emergency Box Drug Act:

30 (1) Authorized personnel means any medical doctor, doctor of
31 osteopathy, registered nurse, licensed practical nurse, nurse

1 practitioner, pharmacist, or physician assistant;

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

3 (3) Drug means any prescription drug or device or legend drug or
4 device defined under section 38-2841, any nonprescription drug as defined
5 under section 38-2829, any controlled substance as defined under section
6 28-405, or any device as defined under section 38-2814;

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

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

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

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

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

25 Sec. 62. Section 71-2445, Revised Statutes Supplement, 2017, is
26 amended to read:

27 71-2445 For purposes of the Automated Medication Systems Act:

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

31 (2) Automated medication system means a mechanical system that

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

8 (3) Chart order means an order for a drug or device issued by a
9 practitioner for a patient who is in the hospital where the chart is
10 stored, for a patient receiving detoxification treatment or maintenance
11 treatment pursuant to section 28-412, or for a resident in a long-term
12 care facility in which a long-term care automated pharmacy is located
13 from which drugs will be dispensed. Chart order does not include a
14 prescription;

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

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

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

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

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

31 (9) Pharmacist care means the provision by a pharmacist of

1 medication therapy management, with or without the dispensing of drugs or
2 devices, intended to achieve outcomes related to the cure or prevention
3 of a disease, elimination or reduction of a patient's symptoms, or
4 arresting or slowing of a disease process;

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

11 (11) Practice of pharmacy has the definition found in section
12 38-2837;

13 (12) Practitioner means a certified registered nurse anesthetist, a
14 certified nurse midwife, a dentist, an optometrist, a nurse practitioner,
15 a physician assistant, a physician, a podiatrist, or a veterinarian;

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

19 (14) Prescription medication distribution machine means a type of
20 automated medication system that packages, labels, or counts medication
21 in preparation for dispensing of medications by a pharmacist pursuant to
22 a prescription; and

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

28 Sec. 63. Section 71-2454, Revised Statutes Supplement, 2017, is
29 amended to read:

30 71-2454 (1) An entity described in section 71-2455 shall establish a
31 system of prescription drug monitoring for the purposes of (a) preventing

1 the misuse of controlled substances that are prescribed and (b) allowing
2 prescribers and dispensers to monitor the care and treatment of patients
3 for whom such a prescription drug is prescribed to ensure that such
4 prescription drugs are used for medically appropriate purposes and that
5 the State of Nebraska remains on the cutting edge of medical information
6 technology.

7 (2) Such system of prescription drug monitoring shall be implemented
8 as follows: Except as provided in subsection (4) of this section,
9 beginning January 1, 2017, all dispensed prescriptions of controlled
10 substances shall be reported; and beginning January 1, 2018, all
11 prescription information shall be reported to the prescription drug
12 monitoring system. The prescription drug monitoring system shall include,
13 but not be limited to, provisions that:

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

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

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

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

26 (e) Make the prescription information available to the statewide
27 health information exchange described in section 71-2455 for access by
28 its participants if such access is in compliance with the privacy and
29 security protections set forth in the provisions of the federal Health
30 Insurance Portability and Accountability Act of 1996, Public Law 104-191,
31 and regulations promulgated thereunder, except that if a patient opts out

1 of the statewide health information exchange, the prescription
2 information regarding that patient shall not be accessible by the
3 participants in the statewide health information exchange.

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

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

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

12 (b) The name and address of the pharmacy dispensing the
13 prescription;

14 (c) The date the prescription is issued;

15 (d) The date the prescription is filled;

16 (e) The name of the drug dispensed or the National Drug Code number
17 as published by the federal Food and Drug Administration of the drug
18 dispensed;

19 (f) The strength of the drug prescribed;

20 (g) The quantity of the drug prescribed and the number of days'
21 supply; and

22 (h) The prescriber's name and National Provider Identifier number or
23 Drug Enforcement Administration number when reporting a controlled
24 substance.

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

31 (a) The first and last name and address, including city, state, and

1 zip code, of the individual to whom the drug is dispensed in accordance
2 with a valid veterinarian-client-patient relationship;

3 (b) Reporting status;

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

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

7 (e) The date the prescription is written and the date the
8 prescription is filled;

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

10 (g) The quantity of the drug dispensed and the number of days'
11 supply.

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

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

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

29 (6) Before accessing the prescription drug monitoring system, any
30 user shall undergo training on the purpose of the system, access to and
31 proper usage of the system, and the law relating to the system, including

1 confidentiality and security of the prescription drug monitoring system.
2 Such training shall be administered by the statewide health information
3 exchange described in section 71-2455 which shall have access to the
4 prescription drug monitoring system for training and administrative
5 purposes. Users who have been trained prior to May 10, 2017, are deemed
6 to be in compliance with the training requirement of this subsection.

7 (7) For purposes of this section:

8 (a) Designee means any licensed or registered health care
9 professional credentialed under the Uniform Credentialing Act designated
10 by a prescriber or dispenser to act as an agent of the prescriber or
11 dispenser for purposes of submitting or accessing data in the
12 prescription drug monitoring system and who is supervised by such
13 prescriber or dispenser;

14 (b) Dispensed prescription means a prescription drug delivered to
15 the ultimate user by or pursuant to the lawful order of a prescriber but
16 does not include (i) the delivery of such prescription drug for immediate
17 use for purposes of inpatient hospital care or emergency department care,
18 (ii) the administration of a prescription drug by an authorized person
19 upon the lawful order of a prescriber, (iii) a wholesale distributor of a
20 prescription drug monitored by the prescription drug monitoring system,
21 or (iv) the dispensing to a nonhuman patient of a prescription drug which
22 is not a controlled substance listed in Schedule II, Schedule III,
23 Schedule IV, or Schedule V of section 28-405;

24 (c) (b) Dispenser means a person authorized in the jurisdiction in
25 which he or she is practicing to deliver a prescription to the ultimate
26 user by or pursuant to the lawful order of a prescriber but does not
27 include (i) the delivery of such prescription drug for immediate use for
28 purposes of inpatient hospital care or emergency department care, (ii)
29 the administration of a prescription drug by an authorized person upon
30 the lawful order of a prescriber, (iii) a wholesale distributor of a
31 prescription drug monitored by the prescription drug monitoring system,

1 ~~or (iv) through December 31, 2017, a veterinarian licensed under the~~
2 ~~Veterinary Medicine and Surgery Practice Act when dispensing~~
3 ~~prescriptions for animals in the usual course of providing professional~~
4 ~~services;~~

5 (d) (e) Participant means an individual or entity that has entered
6 into a participation agreement with the statewide health information
7 exchange described in section 71-2455 which requires the individual or
8 entity to comply with the privacy and security protections set forth in
9 the provisions of the federal Health Insurance Portability and
10 Accountability Act of 1996, Public Law 104-191, and regulations
11 promulgated thereunder; and

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

14 Sec. 64. The State of Nebraska adopts the EMS Personnel Licensure
15 Interstate Compact in the form substantially as follows:

16 ARTICLE 1. PURPOSE

17 In order to protect the public through verification of competency
18 and ensure accountability for patient-care-related activities, all states
19 license emergency medical services personnel, such as emergency medical
20 technicians, advanced emergency medical technicians, and paramedics. The
21 EMS Personnel Licensure Interstate Compact is intended to facilitate the
22 day-to-day movement of emergency medical services personnel across state
23 boundaries in the performance of their emergency medical services duties
24 as assigned by an appropriate authority and authorize state emergency
25 medical services offices to afford immediate legal recognition to
26 emergency medical services personnel licensed in a member state. This
27 compact recognizes that states have a vested interest in protecting the
28 public's health and safety through their licensing and regulation of
29 emergency medical services personnel and that such state regulation
30 shared among the member states will best protect public health and
31 safety. This compact is designed to achieve the following purposes and

1 objectives:

2 1. Increase public access to emergency medical services personnel;

3 2. Enhance the states' ability to protect the public's health and
4 safety, especially patient safety;

5 3. Encourage the cooperation of member states in the areas of
6 emergency medical services personnel licensure and regulation;

7 4. Support licensing of military members who are separating from an
8 active duty tour and their spouses;

9 5. Facilitate the exchange of information between member states
10 regarding emergency medical services personnel licensure, adverse action,
11 and significant investigatory information;

12 6. Promote compliance with the laws governing emergency medical
13 services personnel practice in each member state; and

14 7. Invest all member states with the authority to hold emergency
15 medical services personnel accountable through the mutual recognition of
16 member state licenses.

17 ARTICLE 2. DEFINITIONS

18 In the EMS Personnel Licensure Interstate Compact:

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

23 B. Adverse action means any administrative, civil, equitable, or
24 criminal action permitted by a state's laws which may be imposed against
25 licensed EMS personnel by a state EMS authority or state court,
26 including, but not limited to, actions against an individual's license
27 such as revocation, suspension, probation, consent agreement, monitoring,
28 or other limitation or encumbrance on the individual's practice, letters
29 of reprimand or admonition, fines, criminal convictions, and state court
30 judgments enforcing adverse actions by the state EMS authority.

31 C. Alternative program means a voluntary, nondisciplinary substance

1 abuse recovery program approved by a state EMS authority.

2 D. Certification means the successful verification of entry-level
3 cognitive and psychomotor competency using a reliable, validated, and
4 legally defensible examination.

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

7 F. Emergency medical services (EMS) means services provided by
8 emergency medical services personnel.

9 G. Emergency medical services (EMS) personnel includes emergency
10 medical technicians, advanced emergency medical technicians, and
11 paramedics.

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

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

18 J. License means the authorization by a state for an individual to
19 practice as an EMT, an AEMT, or a paramedic.

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

22 L. Member state means a state that has enacted the EMS Personnel
23 Licensure Interstate Compact.

24 M. Privilege to practice means an individual's authority to deliver
25 emergency medical services in remote states as authorized under this
26 compact.

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

30 O. Remote state means a member state in which an individual is not
31 licensed.

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

3 Q. Rule means a written statement by the commission promulgated
4 pursuant to Article 12 of this compact that is of general applicability;
5 implements, interprets, or prescribes a policy or provision of this
6 compact; or is an organizational, procedural, or practice requirement of
7 the commission and has the force and effect of statutory law in a member
8 state and includes the amendment, repeal, or suspension of an existing
9 rule.

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

14 S. Significant investigatory information means:

15 1. Investigative information that a state EMS authority, after a
16 preliminary inquiry that includes notification and an opportunity to
17 respond if required by state law, has reason to believe, if proved true,
18 would result in the imposition of an adverse action on a license or
19 privilege to practice; or

20 2. Investigative information that indicates that the individual
21 represents an immediate threat to public health and safety regardless of
22 whether the individual has been notified and had an opportunity to
23 respond.

24 T. State means any state, commonwealth, district, or territory of
25 the United States.

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

28 ARTICLE 3. HOME STATE LICENSURE

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

1 B. Any member state may require an individual to obtain and retain a
2 license to be authorized to practice in the member state under
3 circumstances not authorized by the privilege to practice under the terms
4 of this compact.

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

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

10 2. Has a mechanism in place for receiving and investigating
11 complaints about individuals;

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

15 4. No later than five years after activation of this compact,
16 requires a criminal background check of all applicants for initial
17 licensure, including the use of the results of fingerprint or other
18 biometric data checks compliant with the requirements of the Federal
19 Bureau of Investigation with the exception of federal employees who have
20 suitability determination in accordance with 5 C.F.R. 731.202 and submit
21 documentation of such as promulgated in the rules of the commission; and

22 5. Complies with the rules of the commission.

23 ARTICLE 4. COMPACT PRIVILEGE TO PRACTICE

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

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

29 1. Be at least eighteen years of age;

30 2. Possess a current unrestricted license in a member state as an
31 EMT, AEMT, paramedic, or state recognized and licensed level with a scope

1 of practice and authority between EMT and paramedic; and

2 3. Practice under the supervision of a medical director.

3 C. An individual providing patient care in a remote state under the
4 privilege to practice shall function within the scope of practice
5 authorized by the home state unless and until modified by an appropriate
6 authority in the remote state as may be defined in the rules of the
7 commission.

8 D. Except as provided in section C of this Article, an individual
9 practicing in a remote state will be subject to the remote state's
10 authority and laws. A remote state may, in accordance with due process
11 and that state's laws, restrict, suspend, or revoke an individual's
12 privilege to practice in the remote state and may take any other
13 necessary actions to protect the health and safety of its citizens. If a
14 remote state takes action, it shall promptly notify the home state and
15 the commission.

16 E. If an individual's license in any home state is restricted or
17 suspended, the individual shall not be eligible to practice in a remote
18 state under the privilege to practice until the individual's home state
19 license is restored.

20 F. If an individual's privilege to practice in any remote state is
21 restricted, suspended, or revoked, the individual shall not be eligible
22 to practice in any remote state until the individual's privilege to
23 practice is restored.

24 ARTICLE 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

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

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

31 2. The individual originates in the home state and enters a remote

1 state to pick up a patient and provide care and transport of the patient
2 to the home state;

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

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

7 5. Other conditions as determined by rules promulgated by the
8 commission.

9 ARTICLE 6. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT

10 Upon a member state's governor's declaration of a state of emergency
11 or disaster that activates the Emergency Management Assistance Compact,
12 all relevant terms and provisions of the compact shall apply and to the
13 extent any terms or provisions of the EMS Personnel Licensure Interstate
14 Compact conflict with the Emergency Management Assistance Compact, the
15 terms of the Emergency Management Assistance Compact shall prevail with
16 respect to any individual practicing in the remote state in response to
17 such declaration.

18 ARTICLE 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY
19 MILITARY, AND THEIR SPOUSES

20 A. Member states shall consider a veteran, an active military
21 service member, and a member of the National Guard and Reserves
22 separating from an active duty tour, and a spouse thereof, who holds a
23 current valid and unrestricted National Registry of Emergency Medical
24 Technicians certification at or above the level of the state license
25 being sought as satisfying the minimum training and examination
26 requirements for such licensure.

27 B. Member states shall expedite the processing of licensure
28 applications submitted by veterans, active military service members, and
29 members of the National Guard and Reserves separating from an active duty
30 tour and their spouses.

31 C. All individuals functioning with a privilege to practice under

1 this Article remain subject to the adverse actions provisions of Article
2 8 of the EMS Personnel Licensure Interstate Compact.

3 ARTICLE 8. ADVERSE ACTIONS

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

6 B. If an individual's license in any home state is restricted or
7 suspended, the individual shall not be eligible to practice in a remote
8 state under the privilege to practice until the individual's home state
9 license is restored.

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

15 2. An individual currently subject to adverse action in the home
16 state shall not practice in any remote state without prior written
17 authorization from the state EMS authority of both the home state and the
18 remote state.

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

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

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

28 F. A home state's state EMS authority shall investigate and take
29 appropriate action with respect to reported conduct in a remote state as
30 it would if such conduct had occurred within the home state. In such
31 cases, the home state's law shall control in determining the appropriate

1 adverse action.

2 G. Nothing in the EMS Personnel Licensure Interstate Compact shall
3 override a member state's decision that participation in an alternative
4 program may be used in lieu of adverse action and that such participation
5 shall remain nonpublic if required by the member state's laws. Member
6 states must require individuals who enter any alternative programs to
7 agree not to practice in any other member state during the term of the
8 alternative program without prior authorization from such other member
9 state.

10 ARTICLE 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S STATE EMS
11 AUTHORITY

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

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

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

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

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

31 1. The commission is a body politic and an instrumentality of the

1 member states.

2 2. Venue is proper and judicial proceedings by or against the
3 commission shall be brought solely and exclusively in a court of
4 competent jurisdiction where the principal office of the commission is
5 located. The commission may waive venue and jurisdictional defenses to
6 the extent it adopts or consents to participate in alternative dispute
7 resolution proceedings.

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

10 B. Membership, Voting, and Meetings

11 1. Each member state shall have and be limited to one delegate. The
12 responsible official of the state EMS authority or his or her designee
13 shall be the delegate to this compact for each member state. Any delegate
14 may be removed or suspended from office as provided by the law of the
15 state from which the delegate is appointed. Any vacancy occurring in the
16 commission shall be filled in accordance with the laws of the member
17 state in which the vacancy exists. In the event that more than one board,
18 office, or other agency with the legislative mandate to license EMS
19 personnel at and above the level of EMT exists, the Governor of the
20 member state will determine which entity will be responsible for
21 assigning the delegate.

22 2. Each delegate shall be entitled to one vote with regard to the
23 promulgation of rules and creation of bylaws and shall otherwise have an
24 opportunity to participate in the business and affairs of the commission.
25 A delegate shall vote in person or by such other means as provided in the
26 bylaws. The bylaws may provide for delegates' participation in meetings
27 by telephone or other means of communication.

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

30 4. All meetings shall be open to the public, and public notice of
31 meetings shall be given in the same manner as required under the

1 rulemaking provisions in Article 12 of this compact.

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

4 a. Noncompliance of a member state with its obligations under this
5 compact;

6 b. The employment, compensation, discipline, or other personnel
7 matters, practices, or procedures related to specific employees or other
8 matters related to the commission's internal personnel practices and
9 procedures;

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

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

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

14 f. Disclosure of trade secrets or commercial or financial
15 information that is privileged or confidential;

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

18 h. Disclosure of investigatory records compiled for law enforcement
19 purposes;

20 i. Disclosure of information related to any investigatory reports
21 prepared by or on behalf of or for use of the commission or other
22 committee charged with responsibility of investigation or determination
23 of compliance issues pursuant to the compact; or

24 j. Matters specifically exempted from disclosure by federal or
25 member state statute.

26 6. If a meeting, or portion of a meeting, is closed pursuant to this
27 Article, the commission's legal counsel or designee shall certify that
28 the meeting may be closed and shall reference each relevant exempting
29 provision. The commission shall keep minutes that fully and clearly
30 describe all matters discussed in a meeting and shall provide a full and
31 accurate summary of actions taken, and the reasons for the actions,

1 including a description of the views expressed. All documents considered
2 in connection with an action shall be identified in such minutes. All
3 minutes and documents of a closed meeting shall remain under seal,
4 subject to release by a majority vote of the commission or order of a
5 court of competent jurisdiction.

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

10 1. Establishing the fiscal year of the commission;

11 2. Providing reasonable standards and procedures:

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

13 b. Governing any general or specific delegation of any authority or
14 function of the commission;

15 3. Providing reasonable procedures for calling and conducting
16 meetings of the commission, ensuring reasonable advance notice of all
17 meetings, and providing an opportunity for attendance of such meetings by
18 interested parties, with enumerated exceptions designed to protect the
19 public's interest, the privacy of individuals, and proprietary
20 information, including trade secrets. The commission may meet in closed
21 session only after a majority of the membership votes to close a meeting
22 in whole or in part. As soon as practicable, the commission must make
23 public a copy of the vote to close the meeting revealing the vote of each
24 member with no proxy votes allowed;

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

27 5. Providing reasonable standards and procedures for the
28 establishment of the personnel policies and programs of the commission.
29 Notwithstanding any civil service or other similar laws of any member
30 state, the bylaws shall exclusively govern the personnel policies and
31 programs of the commission;

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

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

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

10 9. The commission shall maintain its financial records in accordance
11 with the bylaws.

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

14 D. The commission shall have the following powers:

15 1. The authority to promulgate uniform rules to facilitate and
16 coordinate implementation and administration of this compact. The rules
17 shall have the force and effect of law and shall be binding in all member
18 states;

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

23 3. To purchase and maintain insurance and bonds;

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

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

31 6. To accept any and all appropriate donations and grants of money,

1 equipment, supplies, materials, and services, and to receive, utilize,
2 and dispose of the same. At all times the commission shall strive to
3 avoid any appearance of impropriety or conflict of interest;

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

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

10 9. To establish a budget and make expenditures;

11 10. To borrow money;

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

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

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

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

22 E. Financing of the Commission

23 1. The commission shall pay, or provide for the payment of, the
24 reasonable expenses of its establishment, organization, and ongoing
25 activities.

26 2. The commission may accept any and all appropriate revenue
27 sources, donations, and grants of money, equipment, supplies, materials,
28 and services.

29 3. The commission may levy on and collect an annual assessment from
30 each member state or impose fees on other parties to cover the cost of
31 the operations and activities of the commission and its staff, which must

1 be in a total amount sufficient to cover its annual budget as approved
2 each year for which revenue is not provided by other sources. The
3 aggregate annual assessment amount shall be allocated based upon a
4 formula to be determined by the commission, which shall promulgate a rule
5 binding upon all member states.

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

10 5. The commission shall keep accurate accounts of all receipts and
11 disbursements. The receipts and disbursements of the commission shall be
12 subject to the audit and accounting procedures established under its
13 bylaws. However, all receipts and disbursements of funds handled by the
14 commission shall be audited yearly by a certified or licensed public
15 accountant, and the report of the audit shall be included in and become
16 part of the annual report of the commission.

17 F. Qualified Immunity, Defense, and Indemnification

18 1. The members, officers, executive director, employees, and
19 representatives of the commission shall have no greater liability, either
20 personally or in their official capacity, for any claim for damage to or
21 loss of property or personal injury or other civil liability caused by or
22 arising out of any actual or alleged act, error, or omission that
23 occurred, or that the person against whom the claim is made had a
24 reasonable basis for believing occurred, within the scope of commission
25 employment, duties, or responsibilities, than a state employee would have
26 under the same or similar circumstances. Nothing in this paragraph shall
27 be construed to protect any such person from suit or liability for any
28 damage, loss, injury, or liability caused by the intentional or willful
29 or wanton misconduct of that person.

30 2. The commission shall defend any member, officer, executive
31 director, employee, or representative of the commission in any civil

1 action seeking to impose liability arising out of any actual or alleged
2 act, error, or omission that occurred within the scope of commission
3 employment, duties, or responsibilities, or that the person against whom
4 the claim is made had a reasonable basis for believing occurred within
5 the scope of commission employment, duties, or responsibilities. Nothing
6 in this paragraph shall be construed to prohibit that person from
7 retaining his or her own counsel. The commission shall provide such
8 defense if the actual or alleged act, error, or omission did not result
9 from that person's intentional or willful or wanton misconduct.

10 3. The commission shall indemnify and hold harmless any member,
11 officer, executive director, employee, or representative of the
12 commission for the amount of any settlement or judgment obtained against
13 that person arising out of any actual or alleged act, error, or omission
14 that occurred within the scope of commission employment, duties, or
15 responsibilities, or that such person had a reasonable basis for
16 believing occurred within the scope of commission employment, duties, or
17 responsibilities, if the actual or alleged act, error, or omission did
18 not result from the intentional or willful or wanton misconduct of that
19 person.

20 ARTICLE 11. COORDINATED DATA BASE

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

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

- 29 1. Identifying information;
- 30 2. Licensure data;
- 31 3. Significant investigatory information;

1 4. Adverse actions against an individual's license;

2 5. An indicator that an individual's privilege to practice is
3 restricted, suspended, or revoked;

4 6. Nonconfidential information related to alternative program
5 participation;

6 7. Any denial of application for licensure, and the reason for such
7 denial; and

8 8. Other information that may facilitate the administration of this
9 compact, as determined by the rules of the commission.

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

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

16 E. Any information submitted to the coordinated data base that is
17 subsequently required to be expunged by the laws of the member state
18 contributing the information shall be removed from the coordinated data
19 base.

20 ARTICLE 12. RULEMAKING

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

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

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

31 D. Prior to promulgation and adoption of a final rule or rules by

1 the commission, and at least sixty days in advance of the meeting at
2 which the rule will be considered and voted upon, the commission shall
3 file a notice of proposed rulemaking:

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

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

7 E. The notice of proposed rulemaking shall include:

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

10 2. The text of the proposed rule or amendment and the reason for the
11 proposed rule;

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

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

17 F. Prior to adoption of a proposed rule, the commission shall allow
18 persons to submit written data, facts, opinions, and arguments, which
19 shall be made available to the public.

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

22 1. At least twenty-five persons;

23 2. A governmental subdivision or agency; or

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

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

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

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

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

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

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

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

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

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

30 1. Meet an imminent threat to public health, safety, or welfare;

31 2. Prevent a loss of commission or member state funds;

1 3. Meet a deadline for the promulgation of an administrative rule
2 that is established by federal law or rule; or

3 4. Protect public health and safety.

4 M. The commission or an authorized committee of the commission may
5 direct revisions to a previously adopted rule or amendment for purposes
6 of correcting typographical errors, errors in format, errors in
7 consistency, or grammatical errors. Public notice of any revisions shall
8 be posted on the web site of the commission. The revision shall be
9 subject to challenge by any person for a period of thirty days after
10 posting. The revision may be challenged only on grounds that the revision
11 results in a material change to a rule. A challenge shall be made in
12 writing and delivered to the chair of the commission prior to the end of
13 the notice period. If no challenge is made, the revision will take effect
14 without further action. If the revision is challenged, the revision may
15 not take effect without the approval of the commission.

16 ARTICLE 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

17 A. Oversight

18 1. The executive, legislative, and judicial branches of state
19 government in each member state shall enforce the EMS Personnel Licensure
20 Interstate Compact and take all actions necessary and appropriate to
21 effectuate this compact's purposes and intent. This compact and the rules
22 promulgated under this compact shall have standing as statutory law.

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

27 3. The commission shall be entitled to receive service of process in
28 any such proceeding and shall have standing to intervene in such a
29 proceeding for all purposes. Failure to provide service of process to the
30 commission shall render a judgment or order void as to the commission,
31 this compact, or promulgated rules.

1 B. Default, Technical Assistance, and Termination

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

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

8 b. Provide remedial training and specific technical assistance
9 regarding the default.

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

16 3. Termination of membership in this compact shall be imposed only
17 after all other means of securing compliance have been exhausted. Notice
18 of intent to suspend or terminate shall be given by the commission to the
19 governor, the majority and minority leaders of the defaulting state's
20 legislature or the speaker if no such leaders exist, and each of the
21 member states.

22 4. A state that has been terminated is responsible for all
23 assessments, obligations, and liabilities incurred through the effective
24 date of termination, including obligations that extend beyond the
25 effective date of termination.

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

30 6. The defaulting state may appeal the action of the commission by
31 petitioning the United States District Court for the District of Columbia

1 or the federal district where the commission has its principal offices.
2 The prevailing member shall be awarded all costs of such litigation,
3 including reasonable attorney's fees.

4 C. Dispute Resolution

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

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

10 D. Enforcement

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

13 2. By majority vote, the commission may initiate legal action in the
14 United States District Court for the District of Columbia or the federal
15 district where the commission has its principal offices against a member
16 state in default to enforce compliance with this compact and its
17 promulgated rules and bylaws. The relief sought may include both
18 injunctive relief and damages. In the event judicial enforcement is
19 necessary, the prevailing member shall be awarded all costs of such
20 litigation, including reasonable attorney's fees.

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

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

26 A. The EMS Personnel Licensure Interstate Compact shall come into
27 effect on the date on which the compact statute is enacted into law in
28 the tenth member state. The provisions, which become effective at that
29 time, shall be limited to the powers granted to the commission relating
30 to assembly and the promulgation of rules. Thereafter, the commission
31 shall meet and exercise rulemaking powers necessary to the implementation

1 and administration of this compact.

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

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

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

11 2. Withdrawal shall not affect the continuing requirement of the
12 withdrawing state's state EMS authority to comply with the investigative
13 and adverse action reporting requirements of this compact prior to the
14 effective date of withdrawal.

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

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

22 ARTICLE 15. CONSTRUCTION AND SEVERABILITY

23 The EMS Personnel Licensure Interstate Compact shall be liberally
24 construed so as to effectuate the purposes thereof. If this compact shall
25 be held contrary to the constitution of any member state, the compact
26 shall remain in full force and effect as to the remaining member states.
27 Nothing in this compact supersedes state law or rules related to
28 licensure of EMS agencies.

29 Sec. 65. The State of Nebraska adopts the Psychology
30 Interjurisdictional Compact substantially as follows:

31 ARTICLE I

1 PURPOSE

2 States license psychologists in order to protect the public through
3 verification of education, training, and experience and ensure
4 accountability for professional practice.

5 The Psychology Interjurisdictional Compact is intended to regulate
6 the day-to-day practice of telepsychology, the provision of psychological
7 services using telecommunication technologies, by psychologists across
8 state boundaries in the performance of their psychological practice as
9 assigned by an appropriate authority.

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

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

17 The Compact recognizes that states have a vested interest in
18 protecting the public's health and safety through licensing and
19 regulation of psychologists and that such state regulation will best
20 protect public health and safety.

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

23 The Compact does not apply to permanent in-person, face-to-face
24 practice; it does allow for authorization of temporary psychological
25 practice.

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

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

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

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

5 4. Facilitate the exchange of information between compact states
6 regarding psychologist licensure, adverse actions, and disciplinary
7 history;

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

10 6. Invest all compact states with the authority to hold licensed
11 psychologists accountable through the mutual recognition of compact state
12 licenses.

13 ARTICLE II

14 DEFINITIONS

15 A. Adverse action means any action taken by a state psychology
16 regulatory authority which finds a violation of a statute or regulation
17 that is identified by the state psychology regulatory authority as
18 discipline and is a matter of public record.

19 B. Association of State and Provincial Psychology Boards means the
20 recognized membership organization composed of State and Provincial
21 Psychology Regulatory Authorities responsible for the licensure and
22 registration of psychologists throughout the United States and Canada.

23 C. Authority to practice interjurisdictional telepsychology means a
24 licensed psychologist's authority to practice telepsychology, within the
25 limits authorized under the Psychology Interjurisdictional Compact, in
26 another compact state.

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

30 E. Client or patient means the recipient of psychological services,
31 whether psychological services are delivered in the context of

1 healthcare, corporate, supervision, and/or consulting services.

2 F. Commission means the Psychology Interjurisdictional Compact
3 Commission which is the national administration of which all compact
4 states are members.

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

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

11 I. Coordinated Licensure Information System means an integrated
12 process for collecting, storing, and sharing information on
13 psychologists' licensure and enforcement activities related to psychology
14 licensure laws, which is administered by the recognized membership
15 organization composed of state and provincial psychology regulatory
16 authorities.

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

19 K. Day means any part of a day in which psychological work is
20 performed.

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

24 M. E.Passport means a certificate issued by the Association of State
25 and Provincial Psychology Boards that promotes the standardization in the
26 criteria of interjurisdictional telepsychology practice and facilitates
27 the process for licensed psychologists to provide telepsychological
28 services across state lines.

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

1 O. Home state means a compact state where a psychologist is licensed
2 to practice psychology. If the psychologist is licensed in more than one
3 compact state and is practicing under the authorization to practice
4 interjurisdictional telepsychology, the home state is the compact state
5 where the psychologist is physically present when the telepsychology
6 services are delivered. If the psychologist is licensed in more than one
7 compact state and is practicing under the temporary authorization to
8 practice, the home state is any compact state where the psychologist is
9 licensed.

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

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

18 R. Interjurisdictional Practice Certificate means a certificate
19 issued by the Association of State and Provincial Psychology Boards that
20 grants temporary authority to practice based on notification to the state
21 psychology regulatory authority of intention to practice temporarily and
22 verification of one's qualifications for such practice.

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

26 T. Noncompact state means any state which is not at the time a
27 compact state.

28 U. Psychologist means an individual licensed for the independent
29 practice of psychology.

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

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

7 X. Significant investigatory information means:

8 1. Investigative information that a state psychology regulatory
9 authority, after a preliminary inquiry that includes notification and an
10 opportunity to respond if required by state law, has reason to believe,
11 if proven true, would indicate more than a violation of state statute or
12 ethics code that would be considered more substantial than minor
13 infraction; or

14 2. Investigative information that indicates that the psychologist
15 represents an immediate threat to public health and safety regardless of
16 whether the psychologist has been notified or had an opportunity to
17 respond.

18 Y. State means a state, commonwealth, territory, or possession of
19 the United States or the District of Columbia.

20 Z. State psychology regulatory authority means the board, office, or
21 other agency with the legislative mandate to license and regulate the
22 practice of psychology.

23 AA. Telepsychology means the provision of psychological services
24 using telecommunication technologies.

25 BB. Temporary authorization to practice means a licensed
26 psychologist's authority to conduct temporary in-person, face-to-face
27 practice, within the limits authorized under the Compact, in another
28 compact state.

29 CC. Temporary in-person, face-to-face practice means the practice of
30 psychology in which a psychologist is physically present, not through
31 using telecommunications technologies, in the distant state to provide

1 for the practice of psychology for thirty days within a calendar year and
2 based on notification to the distant state.

3 ARTICLE III

4 HOME STATE LICENSURE

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

7 B. A psychologist may hold one or more compact state licenses at a
8 time. If the psychologist is licensed in more than one compact state, the
9 home state is the compact state where the psychologist is physically
10 present when the services are delivered as authorized by the authority to
11 practice interjurisdictional telepsychology under the terms of the
12 Psychology Interjurisdictional Compact.

13 C. Any compact state may require a psychologist not previously
14 licensed in a compact state to obtain and retain a license to be
15 authorized to practice in the compact state under circumstances not
16 authorized by the authority to practice interjurisdictional
17 telepsychology under the terms of the Psychology Interjurisdictional
18 Compact.

19 D. Any compact state may require a psychologist to obtain and retain
20 a license to be authorized to practice in a compact state under
21 circumstances not authorized by temporary authorization to practice under
22 the terms of the Compact.

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

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

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

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

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

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

9 1. Currently requires the psychologist to hold an active
10 Interjurisdictional Practice Certificate;

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

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

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

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

22 ARTICLE IV

23 COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

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

30 B. To exercise the authority to practice interjurisdictional
31 telepsychology under the terms and provisions of the Compact, a

1 psychologist licensed to practice in a compact state must:

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

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

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

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

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

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

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

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

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

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

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

1 h. The program must include supervised practicum, internship, or
2 field training appropriate to the practice of psychology;

3 i. The curriculum shall encompass a minimum of three academic years
4 of full-time graduate study for doctoral degrees and a minimum of one
5 academic year of full-time graduate study for master's degrees;

6 j. The program includes an acceptable residency as defined by the
7 rules of the Commission.

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

10 4. Have no history of adverse action that violates the rules of the
11 Commission;

12 5. Have no criminal record history reported on an identity history
13 summary that violates the rules of the Commission;

14 6. Possess a current, active E.Passport;

15 7. Provide attestations in regard to areas of intended practice,
16 conformity with standards of practice, competence in telepsychology
17 technology; criminal background; and knowledge and adherence to legal
18 requirements in the home and receiving states, and provide a release of
19 information to allow for primary source verification in a manner
20 specified by the Commission; and

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

22 C. The home state maintains authority over the license of any
23 psychologist practicing into a receiving state under the authority to
24 practice interjurisdictional telepsychology.

25 D. A psychologist practicing into a receiving state under the
26 authority to practice interjurisdictional telepsychology will be subject
27 to the receiving state's authority and laws. A receiving state may, in
28 accordance with that state's due process law, limit or revoke a
29 psychologist's authority to practice interjurisdictional telepsychology
30 in the receiving state and may take any other necessary actions under the
31 receiving state's applicable law to protect the health and safety of the

1 receiving state's citizens. If a receiving state takes action, the state
2 shall promptly notify the home state and the Commission.

3 E. If a psychologist's license in any home state, another compact
4 state, or any authority to practice interjurisdictional telepsychology in
5 any receiving state, is restricted, suspended, or otherwise limited, the
6 E.Passport shall be revoked and therefor the psychologist shall not be
7 eligible to practice telepsychology in a compact state under the
8 authority to practice interjurisdictional telepsychology.

9 ARTICLE V

10 COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

11 A. Compact states shall also recognize the right of a psychologist,
12 licensed in a compact state in conformance with Article III, to practice
13 temporarily in other compact states (distant states) in which the
14 psychologist is not licensed, as provided in the Psychology
15 Interjurisdictional Compact.

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

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

21 a. Regionally accredited by an accrediting body recognized by the
22 United States Department of Education to grant graduate degrees, or
23 authorized by provincial statute or Royal Charter to grant doctoral
24 degrees; or

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

30 2. Hold a graduate degree in psychology that meets the following
31 criteria:

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

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

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

10 d. The program must consist of an integrated, organized sequence of
11 study;

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

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

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

18 h. The program must include supervised practicum, internship, or
19 field training appropriate to the practice of psychology;

20 i. The curriculum shall encompass a minimum of three academic years
21 of full-time graduate study for doctoral degrees and a minimum of one
22 academic year of full-time graduate study for master's degrees;

23 j. The program includes an acceptable residency as defined by the
24 rules of the Commission.

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

27 4. No history of adverse action that violates the rules of the
28 Commission;

29 5. No criminal record history that violates the rules of the
30 Commission;

31 6. Possess a current, active Interjurisdictional Practice

1 Certificate;

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

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

6 C. A psychologist practicing into a distant state under the
7 temporary authorization to practice shall practice within the scope of
8 practice authorized by the distant state.

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

18 E. If a psychologist's license in any home state, another compact
19 state, or any temporary authorization to practice in any distant state,
20 is restricted, suspended, or otherwise limited, the Interjurisdictional
21 Practice Certificate shall be revoked and therefor the psychologist shall
22 not be eligible to practice in a compact state under the temporary
23 authorization to practice.

24 ARTICLE VI

25 CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

26 A psychologist may practice in a receiving state under the authority
27 to practice interjurisdictional telepsychology only in the performance of
28 the scope of practice for psychology as assigned by an appropriate state
29 psychology regulatory authority, as defined in the rules of the
30 Commission, and under the following circumstances:

31 1. The psychologist initiates a client or patient contact in a home

1 state via telecommunications technologies with a client or patient in a
2 receiving state;

3 2. Other conditions regarding telepsychology as determined by rules
4 promulgated by the Commission.

5 ARTICLE VII

6 ADVERSE ACTIONS

7 A. A home state shall have the power to impose adverse action
8 against a psychologist's license issued by the home state. A distant
9 state shall the power to take adverse action on a psychologist's
10 temporary authorization to practice within that distant state.

11 B. A receiving state may take adverse action on a psychologist's
12 authority to practice interjurisdictional telepsychology within that
13 receiving state. A home state may take adverse action against a
14 psychologist based on an adverse action taken by a distant state
15 regarding temporary in-person, face-to-face practice.

16 C. If a home state takes adverse action against a psychologist's
17 license, that psychologist's authority to practice interjurisdictional
18 telepsychology is terminated and the E.Passport is revoked. Furthermore,
19 that psychologist's temporary authorization to practice is terminated and
20 the Interjurisdictional Practice Certificate is revoked.

21 1. All home state disciplinary orders which impose adverse action
22 shall be reported to the Commission in accordance with the rules
23 promulgated by the Commission. A compact state shall report adverse
24 actions in accordance with the rules of the Commission.

25 2. In the event discipline is reported on a psychologist, the
26 psychologist will not be eligible for telepsychology or temporary in-
27 person, face-to-face practice in accordance with the rules of the
28 Commission.

29 3. Other actions may be imposed as determined by the rules
30 promulgated by the Commission.

31 D. A home state's state psychology regulatory authority shall

1 investigate and take appropriate action with respect to reported
2 inappropriate conduct engaged in by a licensee which occurred in a
3 receiving state as it would if such conduct had occurred by a licensee
4 within the home state. In such cases, the home state's law shall control
5 in determining any adverse action against a psychologist's license.

6 E. A distant state's state psychology regulatory authority shall
7 investigate and take appropriate action with respect to reported
8 inappropriate conduct engaged in by a psychologist practicing under
9 temporary authorization practice which occurred in that distant state as
10 it would if such conduct had occurred by a licensee within the home
11 state. In such cases, distant state's law shall control in determining
12 any adverse action against a psychologist's temporary authorization to
13 practice.

14 F. Nothing in the Psychology Interjurisdictional Compact shall
15 override a compact state's decision that a psychologist's participation
16 in an alternative program may be used in lieu of adverse action and that
17 such participation shall remain nonpublic if required by the compact
18 state's law. Compact states must require psychologists who enter any
19 alternative programs to not provide telepsychology services under the
20 authority to practice interjurisdictional telepsychology or provide
21 temporary psychological services under the temporary authorization to
22 practice in any other compact state during the term of the alternative
23 program.

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

27 ARTICLE VIII

28 ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S STATE
29 PSYCHOLOGY REGULATORY AUTHORITY

30 In addition to any other powers granted under state law, a compact
31 state's state psychology regulatory authority shall have the authority

1 under the Psychology Interjurisdictional Compact to:

2 1. Issue subpoenas, for both hearings and investigations, which
3 require the attendance and testimony of witnesses and the production of
4 evidence. Subpoenas issued by a compact state's state psychology
5 regulatory authority for the attendance and testimony of witnesses, or
6 the production of evidence from another compact state shall be enforced
7 in the latter state by any court of competent jurisdiction, according to
8 that court's practice and procedure in considering subpoenas issued in
9 its own proceedings. The issuing state psychology regulatory authority
10 shall pay any witness fees, travel expenses, mileage fees, and other fees
11 required by the service statutes of the state where the witnesses or
12 evidence are located; and

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

16 3. During the course of any investigation, a psychologist may not
17 change his or her home state licensure. A home state's state psychology
18 regulatory authority is authorized to complete any pending investigations
19 of a psychologist and to take any actions appropriate under its law. The
20 home state's state psychology regulatory authority shall promptly report
21 the conclusions of such investigations to the Commission. Once an
22 investigation has been completed, and pending the outcome of the
23 investigation, the psychologist may change his or her home state
24 licensure. The Commission shall promptly notify the new home state of any
25 such decisions as provided in the rules of the Commission. All
26 information provided to the Commission or distributed by compact states
27 pursuant to the psychologist shall be confidential, filed under seal, and
28 used for investigatory or disciplinary matters. The Commission may create
29 additional rules for mandated or discretionary sharing of information by
30 compact states.

31 ARTICLE IX

1 COORDINATED LICENSURE INFORMATION SYSTEM

2 A. The Commission shall provide for the development and maintenance
3 of a Coordinated Licensure Information System (Coordinated Database) and
4 reporting system containing licensure and disciplinary action information
5 on all psychologists or individuals to whom the Psychology
6 Interjurisdictional Compact is applicable in all compact states as
7 defined by the rules of the Commission.

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

12 1. Identifying information;

13 2. Licensure data;

14 3. Significant investigatory information;

15 4. Adverse actions against a psychologist's license;

16 5. An indicator that a psychologist's authority to practice
17 interjurisdictional telepsychology or temporary authorization to practice
18 is revoked;

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

21 7. Any denial of application for licensure, and the reasons for such
22 denial; and

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

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

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

31 E. Any information submitted to the Coordinated Database that is

1 subsequently required to be expunged by the law of the compact state
2 reporting the information shall be removed from the Coordinated Database.

3 ARTICLE X

4 ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT
5 COMMISSION

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

8 1. The Commission is a body politic and an instrumentality of the
9 compact states.

10 2. Venue is proper and judicial proceedings by or against the
11 Commission shall be brought solely and exclusively in a court of
12 competent jurisdiction where the principal office of the Commission is
13 located. The Commission may waive venue and jurisdictional defenses to
14 the extent it adopts or consents to participate in alternative dispute
15 resolution proceedings.

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

18 B. Membership, Voting, and Meetings

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

- 24 a. Executive director, executive secretary, or similar executive;
25 b. Current member of the state psychology regulatory authority of a
26 compact state; or
27 c. Designee empowered with the appropriate delegate authority to act
28 on behalf of the compact state.

29 2. Any Commissioner may be removed or suspended from office as
30 provided by the law of the state from which the Commissioner is
31 appointed. Any vacancy occurring in the Commission shall be filled in

1 accordance with the laws of the compact state in which the vacancy
2 exists.

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

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

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

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

16 a. Noncompliance of a compact state with its obligations under the
17 Compact;

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

22 c. Current, threatened, or reasonably anticipated litigation against
23 the Commission;

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

26 e. Accusation against any person of a crime or formally censuring
27 any person;

28 f. Disclosure of trade secrets or commercial or financial
29 information which is privileged or confidential;

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

1 h. Disclosure of investigatory records compiled for law enforcement
2 purposes;

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

7 j. Matters specifically exempted from disclosure by federal and
8 state statute.

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

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

24 1. Establishing the fiscal year of the Commission;

25 2. Providing reasonable standards and procedures:

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

27 b. Governing any general or specific delegation of any authority or
28 function of the Commission;

29 3. Providing reasonable procedures for calling and conducting
30 meetings of the Commission, ensuring reasonable advance notice of all
31 meetings and providing an opportunity for attendance of such meetings by

1 interested parties, with enumerated exceptions designed to protect the
2 public's interest, the privacy of individuals of such proceedings, and
3 proprietary information, including trade secrets. The Commission may meet
4 in closed session only after a majority of the Commissioners vote to
5 close a meeting to the public in whole or in part. As soon as
6 practicable, the Commission must make public a copy of the vote to close
7 the meeting revealing the vote of each Commissioner with no proxy votes
8 allowed;

9 4. Establishing the titles, duties, and authority and reasonable
10 procedures for the election of the officers of the Commission;

11 5. Providing reasonable standards and procedures for the
12 establishment of the personnel policies and programs of the Commission.
13 Notwithstanding any civil service or other similar law of any compact
14 state, the bylaws shall exclusively govern the personnel policies and
15 programs of the Commission;

16 6. Promulgating a code of ethics to address permissible and
17 prohibited activities of Commission members and employees;

18 7. Providing a mechanism for concluding the operations of the
19 Commission and the equitable disposition of any surplus funds that may
20 exist after the termination of the Compact after the payment, reserving,
21 or both of all of its debts and obligations;

22 8. The Commission shall publish its bylaws in a convenient form and
23 file a copy thereof and a copy of any amendment thereto, with the
24 appropriate agency or officer in each of the compact states;

25 9. The Commission shall maintain its financial records in accordance
26 with the bylaws; and

27 10. The Commission shall meet and take such actions as are
28 consistent with the provisions of the Compact and the bylaws.

29 D. The Commission shall have the following powers:

30 1. The authority to promulgate uniform rules to facilitate and
31 coordinate implementation and administration of the Compact. The rules

1 shall have the force and effect of law and shall be binding in all
2 compact states;

3 2. To bring and prosecute legal proceedings or actions in the name
4 of the Commission, provided that the standing of any state psychology
5 regulatory authority or other regulatory body responsible for psychology
6 licensure to sue or be sued under applicable law shall not be affected;

7 3. To purchase and maintain insurance and bonds;

8 4. To borrow, accept, or contract for services of personnel,
9 including, but not limited to, employees of a compact state;

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

15 6. To accept any and all appropriate donations and grants of money,
16 equipment, supplies, materials, and services, and to receive, utilize,
17 and dispose of the same; provided that at all times the Commission shall
18 strive to avoid any appearance of impropriety or conflict of interest;

19 7. To lease, purchase, accept appropriate gifts or donations of, or
20 otherwise to own, hold, improve or use, any property, real, personal, or
21 mixed; provided that at all times the Commission shall strive to avoid
22 any appearance of impropriety;

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

25 9. To establish a budget and make expenditures;

26 10. To borrow money;

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

31 12. To provide and receive information from, and to cooperate with,

1 law enforcement agencies;

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

3 14. To perform such other functions as may be necessary or
4 appropriate to achieve the purposes of the Compact consistent with the
5 state regulation of psychology licensure, temporary in-person, face-to-
6 face practice, and telepsychology practice.

7 E. The Executive Board

8 The elected officers shall serve as the Executive Board, which shall
9 have the power to act on behalf of the Commission according to the terms
10 of the Compact.

11 1. The Executive Board shall be comprised of six members:

12 a. Five voting members who are elected from the current membership
13 of the Commission by the Commission; and

14 b. One ex-officio, nonvoting member from the recognized membership
15 organization composed of State and Provincial Psychology Regulatory
16 Authorities.

17 2. The ex-officio member must have served as staff or member on a
18 state psychology regulatory authority and will be selected by its
19 respective organization.

20 3. The Commission may remove any member of the Executive Board as
21 provided in bylaws.

22 4. The Executive Board shall meet at least annually.

23 5. The Executive Board shall have the following duties and
24 responsibilities:

25 a. Recommend to the entire Commission changes to the rules or
26 bylaws, changes to the Compact, fees paid by compact states such as
27 annual dues, and any other applicable fees;

28 b. Ensure Compact administration services are appropriately
29 provided, contractual or otherwise;

30 c. Prepare and recommend the budget;

31 d. Maintain financial records on behalf of the Commission;

1 e. Monitor Compact compliance of member states and provide
2 compliance reports to the Commission;

3 f. Establish additional committees as necessary; and

4 g. Other duties as provided in rules or bylaws.

5 F. Financing of the Commission

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

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

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

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

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

31 G. Qualified Immunity, Defense, and Indemnification

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

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

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

1 omission did not result from the intentional or willful or wanton
2 misconduct of that person.

3 ARTICLE XI

4 RULEMAKING

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

9 B. If a majority of the legislatures of the compact states rejects a
10 rule, by enactment of a statute or resolution in the same manner used to
11 adopt the Psychology Interjurisdictional Compact, then such rule shall
12 have no further force and effect in any compact state.

13 C. Rules or amendments to the rules shall be adopted at a regular or
14 special meeting of the Commission.

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

- 19 1. On the web site of the Commission; and
20 2. On the web site of each compact state's state psychology
21 regulatory authority or the publication in which each state would
22 otherwise publish proposed rules.

23 E. The notice of proposed rulemaking shall include:

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

26 2. The text of the proposed rule or amendment and the reason for the
27 proposed rule;

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

30 4. The manner in which interested persons may submit notice to the
31 Commission of their intention to attend the public hearing and any

1 written comments.

2 F. Prior to adoption of a proposed rule, the Commission shall allow
3 persons to submit written data, facts, opinions, and arguments, which
4 shall be made available to the public.

5 G. The Commission shall grant an opportunity for a public hearing
6 before it adopts a rule or amendment if a hearing is requested by:

7 1. At least twenty-five persons who submit comments independently of
8 each other;

9 2. A governmental subdivision or agency; or

10 3. A duly appointed person in an association that has at least
11 twenty-five members.

12 H. If a hearing is held on the proposed rule or amendment, the
13 Commission shall publish the place, time, and date of the scheduled
14 public hearing.

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

19 2. Hearings shall be conducted in a manner providing each person who
20 wishes to comment a fair and reasonable opportunity to comment orally or
21 in writing.

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

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

31 I. Following the scheduled hearing date, or by the close of business

1 on the scheduled hearing date if the hearing was not held, the Commission
2 shall consider all written and oral comments received.

3 J. The Commission shall, by majority vote of all members, take final
4 action on the proposed rule and shall determine the effective date of the
5 rule, if any, based on the rulemaking record and the full text of the
6 rule.

7 K. If no written notice of intent to attend the public hearing by
8 interested parties is received, the Commission may proceed with
9 promulgation of the proposed rule without a public hearing.

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

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

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

1 the notice period. If no challenge is made, the revision will take effect
2 without further action. If the revision is challenged, the revision may
3 not take effect without the approval of the Commission.

4 ARTICLE XII

5 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

6 A. Oversight

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

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

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

22 B. Default, Technical Assistance, and Termination

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

26 a. Provide written notice to the defaulting state and other compact
27 states of the nature of the default, the proposed means of remedying the
28 default, or any other action to be taken by the Commission; and

29 b. Provide remedial training and specific technical assistance
30 regarding the default.

31 2. If a state in default fails to remedy the default, the defaulting

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

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

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

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

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

25 C. Dispute Resolution

26 1. Upon request by a compact state, the Commission shall attempt to
27 resolve disputes related to the Compact which arise among compact states
28 and between Compact and noncompact states.

29 2. The Commission shall promulgate a rule providing for both
30 mediation and binding dispute resolution for disputes that arise before
31 the Commission.

1 D. Enforcement

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

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

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

15 ARTICLE XIII

16 DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT
17 COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

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

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

30 C. Any compact state may withdraw from this Compact by enacting a
31 statute repealing the same.

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

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

7 D. Nothing contained in the Compact shall be construed to invalidate
8 or prevent any psychology licensure agreement or other cooperative
9 arrangement between a compact state and a noncompact state which does not
10 conflict with the Compact.

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

14 ARTICLE XIV

15 CONSTRUCTION AND SEVERABILITY

16 The Psychology Interjurisdictional Compact shall be liberally
17 construed so as to effectuate the purposes of the Compact. If the Compact
18 shall be held contrary to the constitution of any state which is a member
19 of the Compact, the Compact shall remain in full force and effect as to
20 the remaining compact states.

21 Sec. 66. Section 77-2704.12, Revised Statutes Cumulative Supplement,
22 2016, is amended to read:

23 77-2704.12 (1) Sales and use taxes shall not be imposed on the gross
24 receipts from the sale, lease, or rental of and the storage, use, or
25 other consumption in this state of purchases by (a) any nonprofit
26 organization created exclusively for religious purposes, (b) any
27 nonprofit organization providing services exclusively to the blind, (c)
28 any nonprofit private educational institution established under sections
29 79-1601 to 79-1607, (d) any regionally or nationally accredited,
30 nonprofit, privately controlled college or university with its primary
31 campus physically located in Nebraska, (e) any nonprofit (i) hospital,

1 (ii) health clinic when one or more hospitals or the parent corporations
2 of the hospitals own or control the health clinic for the purpose of
3 reducing the cost of health services or when the health clinic receives
4 federal funds through the United States Public Health Service for the
5 purpose of serving populations that are medically underserved, (iii)
6 skilled nursing facility, (iv) intermediate care facility, (v) assisted-
7 living facility, (vi) intermediate care facility for persons with
8 developmental disabilities, (vii) nursing facility, (viii) home health
9 agency, (ix) hospice or hospice service, (x) respite care service, (xi)
10 mental health substance use treatment center licensed under the Health
11 Care Facility Licensure Act, or (xii) ~~substance abuse treatment center~~
12 ~~licensed under the Health Care Facility Licensure Act, or (xiii)~~ center
13 for independent living as defined in 29 U.S.C. 796a, (f) any nonprofit
14 licensed residential child-caring agency, (g) any nonprofit licensed
15 child-placing agency, or (h) any nonprofit organization certified by the
16 Department of Health and Human Services to provide community-based
17 services for persons with developmental disabilities.

18 (2) Any organization listed in subsection (1) of this section shall
19 apply for an exemption on forms provided by the Tax Commissioner. The
20 application shall be approved and a numbered certificate of exemption
21 received by the applicant organization in order to be exempt from the
22 sales and use tax.

23 (3) The appointment of purchasing agents shall be recognized for the
24 purpose of altering the status of the construction contractor as the
25 ultimate consumer of building materials which are physically annexed to
26 the structure and which subsequently belong to the owner of the
27 organization or institution. The appointment of purchasing agents shall
28 be in writing and occur prior to having any building materials annexed to
29 real estate in the construction, improvement, or repair. The contractor
30 who has been appointed as a purchasing agent may apply for a refund of or
31 use as a credit against a future use tax liability the tax paid on

1 inventory items annexed to real estate in the construction, improvement,
2 or repair of a project for a licensed not-for-profit institution.

3 (4) Any organization listed in subsection (1) of this section which
4 enters into a contract of construction, improvement, or repair upon
5 property annexed to real estate without first issuing a purchasing agent
6 authorization to a contractor or repairperson prior to the building
7 materials being annexed to real estate in the project may apply to the
8 Tax Commissioner for a refund of any sales and use tax paid by the
9 contractor or repairperson on the building materials physically annexed
10 to real estate in the construction, improvement, or repair.

11 (5) Any person purchasing, storing, using, or otherwise consuming
12 building materials in the performance of any construction, improvement,
13 or repair by or for any institution enumerated in subsection (1) of this
14 section which is licensed upon completion although not licensed at the
15 time of construction or improvement, which building materials are annexed
16 to real estate and which subsequently belong to the owner of the
17 institution, shall pay any applicable sales or use tax thereon. Upon
18 becoming licensed and receiving a numbered certificate of exemption, the
19 institution organized not for profit shall be entitled to a refund of the
20 amount of taxes so paid in the performance of such construction,
21 improvement, or repair and shall submit whatever evidence is required by
22 the Tax Commissioner sufficient to establish the total sales and use tax
23 paid upon the building materials physically annexed to real estate in the
24 construction, improvement, or repair.

25 Sec. 67. Original sections 38-122, 38-131, 38-321, 38-1201,
26 38-1204, 38-1205, 38-1208, 38-1215, 38-1216, 38-1219, 38-1221, 38-1224,
27 38-1225, 38-1229, 38-1232, 38-1237, 38-2025, 38-2104, 38-2112, 38-2115,
28 38-2117, 38-2122, 38-2123, 38-2124, 38-2518, 38-2519, 38-2521,
29 38-2826.01, 38-3101, 38-3111, 44-772, 44-792, 69-2429, 71-423, 71-430,
30 71-507, 71-906, and 71-1913, Reissue Revised Statutes of Nebraska,
31 sections 71-403, 71-413, 71-1908, 71-2411, and 77-2704.12, Revised

- 1 Statutes Cumulative Supplement, 2016, and sections 28-401, 28-470,
- 2 29-2261, 38-319, 38-1217, 38-1218, 38-2125, 71-401, 71-2445, and 71-2454,
- 3 Revised Statutes Supplement, 2017, are repealed.