

LEGISLATIVE BILL 731

Approved by the Governor April 19, 2018

Introduced by Williams, 36; Kolterman, 24.

A BILL FOR AN ACT relating to public health; to amend sections 38-131, 38-145, 38-1001, 38-1004, 38-1005, 38-1017, 38-1018, 38-1028, 38-1036, 38-1038, 38-1043, 38-1058, 38-1061, 38-1062, 38-1063, 38-1065, 38-1069, 38-1073, 38-1074, 38-1075, 38-1086, 38-1097, 38-1099, 38-10100, 38-10102, 38-10103, 38-10104, 38-10105, 38-10107, 38-10108, 38-10112, 38-10120, 38-10128, 38-10129, 38-10131, 38-10133, 38-10135, 38-10142, 38-10147, 38-10150, 38-10152, 38-10153, 38-10154, 38-10156, 38-10171, 38-2833, 38-2847, 38-2891, 38-28106, 38-3208, 71-203, 71-204, 71-208.08, 71-224, and 71-425, Reissue Revised Statutes of Nebraska, sections 71-202.01, 71-208, 71-403, 71-2448, and 71-2483, Revised Statutes Cumulative Supplement, 2016, and sections 38-1066, 38-1070, 38-10132, 38-2801, 38-2802, 38-2870, 38-2892, and 71-401, Revised Statutes Supplement, 2017; to require criminal background checks for physical therapists and physical therapy assistants; to require continuing education regarding the prescribing of opiates; to define, redefine, change, and eliminate definitions and provide for licensure of mobile cosmetology salons and mobile nail technology salons under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act; to eliminate certain provisions relating to cosmeticians, cosmetic establishments, electrology establishments, guest artists, guest body artists, students, and schools; to change licensure requirements for cosmetologists, nail technicians, instructors, and barbers; to change and eliminate requirements for salons, colleges, and schools; to eliminate liability of managers as prescribed; to authorize practice for purposes of the Respiratory Care Practice Act; to provide for licensing of mobile barber shops under the Barber Act; to change provisions relating to dispensing of controlled substances; to provide for licensure of remote dispensing pharmacies under the Pharmacy Practice Act and the Health Care Facility Licensure Act; to adopt the Physical Therapy Licensure Compact; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; and to outright repeal sections 38-1013, 38-1014, 38-1022, 38-1029, 38-1030, 38-1071, 38-1072, 38-1091, 38-1092, 38-1093, 38-1094, 38-1095, 38-1096, 38-10106, and 38-10155, Reissue Revised Statutes of Nebraska.

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

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

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

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

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

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

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

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

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

(4)(a) For a profession for which there are no continuing education

requirements on December 31, 2002, the requirements may include, but not be limited to, any one or a combination of the continuing competency activities listed in subsection (5) of this section.

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

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

- (a) Continuing education;
- (b) Clinical privileging in an ambulatory surgical center or hospital as defined in section 71-405 or 71-419;
- (c) Board certification in a clinical specialty area;
- (d) Professional certification;
- (e) Self-assessment;
- (f) Peer review or evaluation;
- (g) Professional portfolio;
- (h) Practical demonstration;
- (i) Audit;
- (j) Exit interviews with consumers;
- (k) Outcome documentation;
- (l) Testing;
- (m) Refresher courses;
- (n) Inservice training;
- (o) Practice requirement; or
- (p) Any other similar modalities.

(6) Beginning with the first license renewal period which begins on or after October 1, 2018, the continuing competency requirements for a nurse midwife, dentist, physician, physician assistant, nurse practitioner, podiatrist, and veterinarian who prescribes controlled substances shall include at least three hours of continuing education biennially regarding prescribing opiates as defined in section 28-401. The continuing education may include, but is not limited to, education regarding prescribing and administering opiates, the risks and indicators regarding development of addiction to opiates, and emergency opiate situations. One-half hour of the three hours of continuing education shall cover the prescription drug monitoring program described in sections 71-2454 to 71-2456. This subsection terminates on January 1, 2029.

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

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

Sec. 4. Section 38-1004, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

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

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

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

Sec. 10. Mobile nail technology salon means a self-contained, self-supporting, enclosed mobile unit licensed under the Cosmetology, Electrology,

Esthetics, Nail Technology, and Body Art Practice Act to serve as a mobile site for the performance of the practices of nail technology by persons licensed under the act.

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

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

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

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

Sec. 13. Section 38-1043, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

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

(2) Licensure shall be required before any person may engage in the full, unsupervised practice or teaching of cosmetology, electrology, esthetics, nail technology, or body art, and no person may assume the title of cosmetologist, electrologist, esthetician, instructor, nail technician, nail technology instructor, esthetics instructor, permanent color technician, tattoo artist, body piercer, or body brander without first being licensed by the department.

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

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

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

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

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

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

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

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

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

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

(c) For licensure as a cosmetology instructor, the program of studies shall consist of a minimum of six ~~nine~~ hundred twenty-five ~~twenty-five~~ hours beyond the program of studies required for licensure as a cosmetologist ~~earned in a period~~

of not less than six months;

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) That he or she is currently licensed in the appropriate category in another jurisdiction and that he or she has never been disciplined or had his or her license revoked. An applicant seeking licensure as an instructor in the manner provided in this section shall be licensed as an instructor in another jurisdiction. An applicant seeking licensure as a cosmetologist in the manner provided in this section shall be licensed as a cosmetologist in another jurisdiction. An applicant seeking licensure as an esthetician in the manner provided in this section shall be licensed as a cosmetologist, an esthetician, or an equivalent title in another jurisdiction. An applicant seeking licensure as an esthetics instructor in the manner provided in this section shall be licensed as a cosmetology instructor, esthetics instructor, or the equivalent in another jurisdiction. An applicant seeking licensure as an electrologist or an electrology instructor in the manner provided in this section shall be licensed as an electrologist or an electrology instructor, respectively, in another jurisdiction;

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

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

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

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

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

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

(v) Each month of full-time practice as an electrologist within the five years immediately preceding application shall be valued as one hundred hour-equivalents toward an electrologist's license.

(2) An applicant who is a military spouse may apply for a temporary

license as provided in section 38-129.01 and may practice under the temporary license without supervision.

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

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

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

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

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

~~38-1073 An applicant for licensure as a temporary practitioner shall show evidence that his or her completed application for regular licensure has been accepted by the department, that he or she has not failed any portion of the licensure examination, and that he or she has been accepted for work in a licensed cosmetology establishment under the supervision of a licensed practitioner. An individual registered as a temporary practitioner on December 1, 2008, shall be deemed to be licensed as a temporary practitioner under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act on such date. The temporary practitioner may continue to practice under such registration as a temporary license until it would have expired under its terms.~~

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

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

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

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

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

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

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

38-1075 The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act does not apply to or restrict the activities of the following:

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

(2) Any person engaging solely in earlobe piercing;

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

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

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

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

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

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

(9) Any person when engaged in nonvocational training;

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

(11) Any person or licensee engaged in the practice or teaching of

manicuring; ~~and~~

(12) Any person or licensee engaged in the practice of airbrush tanning or temporary, nonpermanent airbrush tattooing; ~~and~~ -

(13) Any person applying cosmetics.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The proposed school shall have a contracted enrollment of at least ~~ten~~ fifteen full-time or ~~part-time~~ students;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The proposed school shall have a contracted enrollment of at least four full-time or part-time ~~but not more than six~~ students ~~for each licensed~~

~~esthetics instructor on the staff of the proposed school;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) The school shall print and provide to each student a copy of the school rules, which shall not be inconsistent with the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, the Uniform Credentialing Act, or the rules and regulations adopted and promulgated under either act and which shall include policies of the school with respect to tuition, reimbursement, conduct, attendance, grading, earning of hours ~~and credits~~, demerits, penalties, dismissal, graduation requirements, dress, and

other information sufficient to advise the student of the standards he or she will be required to maintain. The department may review any school's rules to determine their consistency with the intent and content of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and the rules and regulations and may overturn any school rules found not to be in accord.

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

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

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

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

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

(ii) Has completed the tenth grade;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) A transfer shall mean a student who has transferred to another school~~

in Nebraska or in another state;

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

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

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

~~(6) (9) No student shall be permitted by the school to train or work in a school in any manner for more than ten hours a day; and~~

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

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

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

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

38-10,107 (1) Barbers licensed in the State of Nebraska attending a school of cosmetology may be given credit of one thousand hours of training applied toward the course hours required for graduation Any person holding a current barbering license issued by the appropriate authority in Nebraska shall be entitled to waive one thousand hours upon enrolling in a complete course of cosmetology training in a school of cosmetology. The school shall determine, based upon the knowledge and experience of the student, which one thousand hours of training shall be waived for the student. The school shall determine, based upon the knowledge and experience of the student, how many credits to waive and which credits are to be waived for the student, except that no fewer than five hundred credits and no more than one thousand credits may be waived for any such student. No hours shall be waived for a licensed barber enrolling in an esthetician training course or program.

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

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

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

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

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

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

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

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

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

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

~~(a) (i)~~ In order to be issued a home services permit by the department, an

applicant shall hold a current active salon license; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 39. Each application for a license to operate a mobile cosmetology salon shall be reviewed by the department for compliance with the requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. If an application is denied, the applicant shall be informed in writing of the grounds for denial, and such denial shall not prejudice future applications by the applicant. If an application is approved, the department shall issue the applicant a certificate of consideration to operate a mobile cosmetology salon pending an operation inspection. The department shall conduct an operation inspection of each salon issued a certificate of consideration within six months after the issuance of such certificate. A salon which passes the inspection shall be issued a permanent license. A salon which fails the inspection shall submit within fifteen days evidence of corrective action taken to improve those aspects of operation found deficient. If evidence is not submitted within fifteen days or if after a second inspection the salon does not receive a satisfactory rating, it shall immediately relinquish its certificate of consideration and cease operation.

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

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

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

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

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

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

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

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

(b) The current licenses of all persons licensed under the act who are

employed by or working in the salon; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) He or she possesses sufficient ability to read the English language to permit the applicant to practice in a safe manner, as evidenced by successful completion of the written examination; and

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

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

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

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

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

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

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

38-10,131 (1) Examinations approved by the board may be national standardized examinations, but in all cases the examinations shall be related to the knowledge and skills necessary to perform the practices being examined and shall be related to the curricula required to be taught in nail technology programs.

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

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

examination.

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

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

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

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

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

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

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

(e) For licensure as a nail technology instructor, evidence of completion ~~-(i) Completion~~ of a program of studies consisting of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board, beyond the program of studies required for licensure in another jurisdiction as a nail technician, successful passage of a written examination, and current licensure as a nail technician in Nebraska as evidenced by possessing a valid Nebraska nail technician license. If a written examination was not required for licensure as a nail technology instructor, the applicant must take the Nebraska written examination. Each month of full-time practice as a nail technology instructor within the five years immediately preceding application shall be valued as equivalent to one hundred hours toward a nail technology instructor license. ~~;~~ ~~or~~

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

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

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

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

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

38-10,135 An applicant for licensure as a nail technology temporary practitioner shall show evidence that his or her completed application for regular licensure has been accepted by the department, that he or she has not failed any portion of the licensure examination, and that he or she has been accepted for work in a licensed nail technology or cosmetology establishment under the supervision of a licensed nail technician or licensed cosmetologist. ~~An individual registered as a temporary practitioner on December 1, 2008, shall be deemed to be licensed as a temporary practitioner under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act on such date. The temporary practitioner may continue to practice under such registration as a license until it would have expired under its terms.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38-10,150 Along with the application, an applicant for a license to operate a nail technology school shall submit:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

school; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) All nail technology students and nail technology student instructors shall be under the supervision of a cosmetology instructor, nail technology instructor, or nail technology student instructor at all times when nail technology services are being taught or performed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 59. Any person seeking a license to operate a mobile nail technology salon shall submit a completed application to the department, and along with the application, the applicant shall submit a detailed floor plan or blueprint of the proposed salon sufficient to demonstrate compliance with the requirements of section 58 of this act.

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

Sec. 61. In order to maintain its license in good standing, each mobile

nail technology salon shall operate in accordance with the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Initiating or continuing home services to a client who does not meet

the criteria established in the act;

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

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

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

(13) Knowingly permitting any person under supervision to violate any law, rule, or regulation or knowingly permitting any establishment or facility under supervision to operate in violation of any law, rule, or regulation;

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

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

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

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

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

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

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

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

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

38-2833 Pharmacist in charge means a pharmacist who is designated on a pharmacy license or a remote dispensing pharmacy license or designated by a hospital as being responsible for the practice of pharmacy in the pharmacy for which a pharmacy license or a remote dispensing pharmacy license is issued or in a hospital pharmacy and who works within the physical confines of such pharmacy or hospital pharmacy, except that the pharmacist in charge is not required to work within the physical confines of a remote dispensing pharmacy unless otherwise required by law.

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

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

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

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

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

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

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

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

(2) Prescription drugs or devices may only be dispensed by a pharmacist or pharmacist intern pursuant to a medical order, by an individual dispensing pursuant to a delegated dispensing permit, or as otherwise provided in section 38-2850. Notwithstanding any other provision of law to the contrary, a

pharmacist or a pharmacist intern may dispense drugs or devices pursuant to a medical order or an individual dispensing pursuant to a delegated dispensing permit may dispense drugs or devices pursuant to a medical order. The Pharmacy Practice Act shall not be construed to require any pharmacist or pharmacist intern to dispense, compound, administer, or prepare for administration any drug or device pursuant to any medical order. A pharmacist or pharmacist intern shall retain the professional right to refuse to dispense.

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

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

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

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

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

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

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

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

Sec. 75. Section 38-2891, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

(b) Providing patient counseling;

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

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

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

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

(g) Performing any professional consultations; and

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

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

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

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

(2) Except as otherwise provided in the Automated Medication Systems Act, the supervision of pharmacy technicians at a pharmacy shall be performed by the pharmacist who is on duty in the facility with the pharmacy technicians or located in pharmacies that utilize a real-time, online data base and have a

pharmacist in all pharmacies. The supervision of pharmacy technicians at a remote dispensing pharmacy or hospital pharmacy shall be performed by the pharmacist assigned by the pharmacist in charge to be responsible for the supervision and verification of the activities of the pharmacy technicians.

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

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

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

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

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

(2) The gratuitous care, including the practice of respiratory care, of the ill by a friend or member of the family or by a person who is not licensed to practice respiratory care if such person does not represent himself or herself as a respiratory care practitioner;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(13)~~ Student shall mean a person attending an approved, licensed barber school or college, duly registered with the board as a student engaged in learning and acquiring any and all of the practices of barbering, and who, while learning, performs and assists any of the practices of barbering in a barber school or college; and

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

Sec. 80. Section 71-203, Reissue Revised Statutes of Nebraska, is amended

to read:

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

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

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

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

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

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

71-208.08 (1) Cosmetologists licensed in the State of Nebraska attending a barber school or college may of barbering shall be given credit of one thousand hours of training applied credit toward the course hours required for graduation.

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

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

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

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

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

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

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

(3) The barber shop is clearly identified as such to the public by a sign;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) No barbering practices may be performed in a barber shop while the barber shop is moving. The barber shop must be safely and legally parked in a legal parking space at all times while clients are present inside the barber shop. A barber shop shall not park or conduct business within three hundred feet of another licensed barber shop. The board is not responsible for monitoring for enforcement of this subdivision but may discipline a license for a reported and verified violation; and

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

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

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

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

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

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

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

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

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

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

Sec. 94. Section 71-425, Reissue Revised Statutes of Nebraska, is amended

to read:

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

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

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

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

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

(2) If the remote dispensing pharmacy employs a certified pharmacy technician to dispense prescription drugs, remote dispensing shall occur under remote supervision via a real-time audiovisual communication system by a licensed pharmacist employed by a supervising pharmacy. The licensed pharmacist must be licensed and located in Nebraska. If the real-time audiovisual communication system between the remote dispensing pharmacy and supervising pharmacy is not working, no remote dispensing can be completed at the remote dispensing pharmacy until the real-time audiovisual communication system is restored and working properly.

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

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

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

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

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

71-2448 A prescription medication distribution machine:

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

(2) May be operated only (a) in a licensed pharmacy where a pharmacist dispenses medications to patients for self-administration pursuant to a prescription, (b) in a remote dispensing pharmacy as described in section 98 of this act, or (c) (b) in a long-term care automated pharmacy subject to section 71-2451.

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

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

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

ARTICLE I

PURPOSE

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

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

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

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

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

4. Support spouses of relocating military members;

5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and

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

ARTICLE II
DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE III

STATE PARTICIPATION IN THE COMPACT

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

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

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

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

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

5. Comply with the rules of the Commission;

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

7. Have continuing competence requirements as a condition for license

renewal.

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

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

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

ARTICLE IV

COMPACT PRIVILEGE

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

1. Hold a license in the home state;
2. Have no encumbrance on any state license;
3. Be eligible for a compact privilege in any member state in accordance with paragraphs d, g, and h of this Article;
4. Have not had any adverse action against any license or compact privilege within the previous two years;
5. Notify the Commission that the licensee is seeking the compact privilege within a remote state;
6. Pay any applicable fees, including any state fee, for the compact privilege;
7. Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and
8. Report to the Commission adverse action taken by any nonmember state within thirty days from the date the adverse action is taken.

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

c. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

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

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

1. The home state license is no longer encumbered; and
2. Two years have elapsed from the date of the adverse action.

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

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

1. The specific period of time for which the compact privilege was removed has ended;
2. All fines have been paid; and
3. Two years have elapsed from the date of the adverse action.

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

ARTICLE V

ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

- a. Home of record;
- b. Permanent change of station (PCS); or
- c. State of current residence if it is different than the PCS state or home of record.

ARTICLE VI

ADVERSE ACTIONS

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

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

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

d. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other

member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

e. A remote state shall have the authority to:

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

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located; and

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

f. Joint Investigations

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

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

ARTICLE VII

ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

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

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

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

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

b. Membership, Voting, and Meetings

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

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

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

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

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

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

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

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

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

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

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

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

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

7. Purchase and maintain insurance and bonds;

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

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

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

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

impropriety;

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

13. Establish a budget and make expenditures;

14. Borrow money;

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

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

17. Establish and elect an executive board; and

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

d. The Executive Board

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

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

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

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

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

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

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

4. The executive board shall meet at least annually.

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

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

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

C. Prepare and recommend the budget;

D. Maintain financial records on behalf of the Commission;

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

F. Establish additional committees as necessary; and

G. Other duties as provided in rules or bylaws.

e. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article IX.

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

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

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

C. Current, threatened, or reasonably anticipated litigation;

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

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

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

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

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

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

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

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

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

f. Financing of the Commission

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

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

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

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

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

g. Qualified Immunity, Defense, and Indemnification

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

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

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

ARTICLE VIII

DATA SYSTEM

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

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

1. Identifying information;

2. Licensure data;

3. Adverse actions against a license or compact privilege;

4. Nonconfidential information related to alternative program participation;

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

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

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

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

e. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

f. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the

information shall be removed from the data system.

ARTICLE IX

RULEMAKING

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

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

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

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

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

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

e. The notice of proposed rulemaking shall include:

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

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

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

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

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

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

1. At least twenty-five persons;

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

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

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

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

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

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

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

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

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

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

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

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

2. Prevent a loss of Commission or member state funds;

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

4. Protect public health and safety.

m. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the web site of the Commission. The revision shall be subject to challenge by any person for a

period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE X

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

a. Oversight

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

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

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

b. Default, Technical Assistance, and Termination

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

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

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

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

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

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

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

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

c. Dispute Resolution

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

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

d. Enforcement

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

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

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

ARTICLE XI

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

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

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

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

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

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

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

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

ARTICLE XII

CONSTRUCTION AND SEVERABILITY

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

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

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

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

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

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