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ENGROSSED LEGISLATIVE BILL 332

Introduced by Hardin, 48.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 38-511, 38-1401, 38-1402, 38-1413, 38-1424, 38-1501, 38-1502, 38-1504, 38-1505, 38-1508, 38-1510, 38-1511, 38-1514, 38-2849, and 38-2884, Reissue Revised Statutes of Nebraska, and sections 38-1509, 38-1512, 38-1513, 38-28,104, and 68-911, Revised Statutes Cumulative Supplement, 2024; to provide, change, and eliminate definitions; to provide for assistant funeral directors; to provide for credentialing, scope of practice, collaborative agreements, restrictions on practice, and disciplinary actions under the Funeral Directing and Embalming Practice Act; to change provisions relating to licensure and regulation of hearing instrument specialists under the Hearing Instrument Specialists Practice Act; to change membership requirements for the Board of Pharmacy; to change requirements relating to compounding and delegated dispensing permits; to provide requirements for certain prescription refills as prescribed; to require medicaid coverage for psychology services provided by certain practitioners as prescribed; to require a memorandum of understanding regarding a Rural Health Opportunity Program; to provide for tuition waivers for eligible students as prescribed; to state intent regarding appropriations; to eliminate provisions relating to applicability of the Hearing Instrument Specialists Practice Act; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 38-512 and 38-1506, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 38-511, Reissue Revised Statutes of Nebraska, is amended to read:

38-511 Nothing in the Audiology and Speech-Language Pathology Practice Act

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shall be construed to prevent or restrict:

(1) The practice of audiology or speech-language pathology or the use of the official title of such practice by a person employed as a speech-language pathologist or audiologist by the federal government;

(2) A physician from engaging in the practice of medicine and surgery or any individual from carrying out any properly delegated responsibilities within the normal practice of medicine and surgery under the supervision of a physician;

(3) A person licensed as a hearing instrument specialist in this state from engaging in the fitting, selling, ordering, and servicing of hearing instruments or performing such other duties as defined in the Hearing Instrument Specialists Practice Act;

(4) The practice of audiology or speech-language pathology or the use of the official title of such practice by a person who holds a valid and current credential as a speech-language pathologist or audiologist issued by the State Department of Education, if such person performs speech-language pathology or audiology services solely as a part of his or her duties within an agency, institution, or organization for which no fee is paid directly or indirectly by the recipient of such service and under the jurisdiction of the State Department of Education, but such person may elect to be within the jurisdiction of the Audiology and Speech-Language Pathology Practice Act;

(5) The clinical practice in audiology or speech-language pathology required for students enrolled in an accredited college or university pursuing a major in audiology or speech-language pathology, if such clinical practices are supervised by a person licensed to practice audiology or speech-language pathology and if the student is designated by a title such as student clinician or other title clearly indicating the training status; or

(6) The utilization of a speech aide or other personnel employed by a public school, educational service unit, or other private or public educational institution working under the direct supervision of a licensed speech-language pathologist.

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Sec. 2. Section 38-1401, Reissue Revised Statutes of Nebraska, is amended to read:

38-1401 Sections 38-1401 to 38-1428 and sections 4 and 6 to 9 of this act shall be known and may be cited as the Funeral Directing and Embalming Practice Act.

Sec. 3. Section 38-1402, Reissue Revised Statutes of Nebraska, is amended to read:

38-1402 For purposes of the Funeral Directing and Embalming Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-1403 to 38-1413 and section 4 of this act apply.

Sec. 4. Assistant funeral director means a person who assists a funeral director licensed pursuant to the Funeral Directing and Embalming Practice Act.

Sec. 5. Section 38-1413, Reissue Revised Statutes of Nebraska, is amended to read:

38-1413 Supervision means the direct oversight or the easy availability of the supervising funeral director and embalmer. The first twenty-five funeral assists and embalmings performed by an apprentice shall be completed under direct onsite supervision of the supervising funeral director and embalmer.

Sec. 6. To be eligible to enter into a collaborative agreement to act as an assistant funeral director, an individual shall provide evidence of successful completion of an approved jurisprudence examination in Nebraska law.

Sec. 7. Prior to acting as an assistant funeral director, the assistant funeral director shall be employed by a funeral director licensed pursuant to the Funeral Directing and Embalming Practice Act and shall be a party to a signed collaborative agreement with the licensed funeral director. An assistant funeral director may be so employed by more than one funeral director in Nebraska by being a party to a signed collaborative agreement with each licensed funeral director.

Sec. 8. (1) An assistant funeral director may assist a funeral director licensed pursuant to the Funeral Directing and Embalming Practice Act with one

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or more of the principal functions of funeral directing, including the operation and management of a licensed funeral establishment. Such principal functions shall include, but not be limited to, conducting funeral services, arranging interments, working with families on funeral arrangements, and performing daily management and all permitted necessary funeral activities related to the operation of a licensed funeral establishment. The assistant funeral director shall perform all work under the supervision and control of the licensed funeral director.

(2) An assistant funeral director shall not engage in any aspect of the practice of embalming a dead human body. An assistant funeral director found to be in violation of this subsection shall have any collaborative agreement in Nebraska immediately terminated and employment in Nebraska as an assistant funeral director immediately terminated.

Sec. 9. A funeral director who is employing an assistant funeral director shall enter into a collaborative agreement with the assistant funeral director, supervise the assistant funeral director, and keep records of the collaborative agreement and the functions of the assistant funeral director.

Sec. 10. Section 38-1424, Reissue Revised Statutes of Nebraska, is amended to read:

38-1424 (1) In addition to the grounds for disciplinary action found in sections 38-178 and 38-179, a credential issued under the Funeral Directing and Embalming Practice Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-196 when the applicant or credential holder is found guilty of any of the following acts or offenses:

(a) Solicitation of dead human bodies by the credential holder or his or her agents, assistants, or employees, either prior to or following death;

(b) The purchasing of funeral or embalming engagements or the payment of a commission either directly or indirectly or offer of payment of such commission to any agent, assistant, or employee for the purpose of securing business;

(c) Using indecent, profane, or obscene language in the presence of a dead

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human body or within the immediate presence or hearing of the family, relatives, or friends of the deceased prior to the burial of the deceased;

(d) Soliciting or accepting any remuneration, commission, bonus, or rebate in consideration of the recommending or causing a dead human body to be placed in any crematory, mausoleum, or cemetery;

(e) Using any casket or part thereof which has previously been used as a receptacle for, or in connection with, the shipment, burial, or other disposition of a dead human body without first identifying such item as used;

(f) Violations of any state law, municipal ordinance, or rule or regulation of the department or other body having regulatory powers, relating to the handling, custody, care, or transportation of dead human bodies;

(g) Refusal to surrender promptly the custody of a dead human body upon request of a person or persons lawfully entitled to the custody thereof;

(h) Taking undue advantage of a patron or patrons, or being found guilty of fraud, or misrepresentation in the selling of merchandise or service to patrons; or

(i) Failure to comply with section 9 of this act.

(2) An applicant or a credential holder shall be subject to the penalty provisions of this section if found guilty of any of the following:

(a) Paying, directly or indirectly, any money or other thing of value as a commission or gratuity for the securing of business;

(b) The buying of a business of any person, firm, or corporation, or the paying of a commission to any person, firm, or corporation or to any hospital or any institution where death occurs or to any hospital superintendent, nurse, intern, or other employee, whether directly or indirectly; or

(c) Willful malpractice.

(3) Any funeral director and embalmer who commits any of the acts or things prohibited by this section or otherwise violates any of the provisions thereof shall be guilty of a Class II misdemeanor.

(4) Nothing in this section shall be construed to prohibit a licensed funeral director and embalmer from engaging in sales of funeral goods or

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services under the Burial Pre-Need Sale Act.

Sec. 11. Section 38-1501, Reissue Revised Statutes of Nebraska, is amended to read:

38-1501 Sections 38-1501 to 38-1518 and sections 14 and 23 to 32 of this act shall be known and may be cited as the Hearing Instrument Specialists Practice Act.

Sec. 12. Section 38-1502, Reissue Revised Statutes of Nebraska, is amended to read:

38-1502 For purposes of the Hearing Instrument Specialists Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-1503 to 38-1507 and section 14 of this act apply.

Sec. 13. Section 38-1504, Reissue Revised Statutes of Nebraska, is amended to read:

38-1504 Hearing instrument means any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for impaired hearing. Hearing instrument does not include a wearable instrument or device with an implantable component such as a wearable processor for a cochlear implant or bone-anchored implant.

Sec. 14. Hearing instrument specialist means a person who engages in the practice of ordering the use and fitting of hearing instruments.

Sec. 15. Section 38-1505, Reissue Revised Statutes of Nebraska, is amended to read:

38-1505 (1) Practice of ordering the use and fitting of hearing instruments includes the following activities:

(a) Eliciting patient case histories, including medical history, otological history, pharmacological history, amplification history, and patient attitudes and expectations;

(b) Administering otoscopy and, if required, cerumen removal for the purpose of identifying possible otological conditions, including, but not limited to, any of the conditions related to warnings found in the regulations

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of the federal Food and Drug Administration, 21 C.F.R. 801.422, as such regulations existed on January 1, 2025, which may indicate the need for a medical referral or which may have a bearing on outcomes or recommendations;

(c) Administering and interpreting tests of human hearing performed with an audiometer, including other appropriate objective and subjective methodology and measures, for purposes of ordering and fitting hearing aids;

(d) Determining candidacy for hearing instruments, and discussing the results of a human hearing test with the individual to inform the individual about potential options for addressing the individual's hearing loss, including hearing instruments, hearing-assistive devices, or other medical interventions, and facilitating appropriate referrals, if needed;

(e) Ordering, selecting, or fitting appropriate hearing instruments and assistive devices, including appropriate technology, programming parameters, and special custom earpiece applications, as indicated;

(f) Assessing hearing instrument efficacy utilizing appropriate fitting verification methodology and equipment, which may include real-ear measures or speech mapping, and electroacoustic analysis equipment;

(g) Assessing hearing instrument benefits through appropriate validation measures, which may include communication assessment questionnaires or speech audiometry;

(h)(i) Taking ear impressions or electronic scans by any method used for the purpose of creating earmolds and (ii) preparing earmolds for hearing instruments, assistive devices, telecommunications applications, ear protection, and other related applications;

(i) Ordering and modifying earmolds and auditory equipment, excluding FM transmitters, to meet a patient's needs;

(j) Providing services in the use and care of hearing instruments and assistive devices, including listening strategies and other approaches to foster optimal patient results;

(k) Providing supervision and inservice training of those entering the dispensing profession;

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(l) Providing post-fitting care and services and hearing instrument care and repair services; or

(m) Any other act of hearing assessment pertaining to hearing testing, ordering the use of hearing instruments, or the selling, renting, leasing, and delivery of hearing instruments.

(2) Practice of ordering the use and fitting of hearing instruments does not include:

(a) Evaluation, diagnosis, management, or treatment of auditory or vestibular conditions;

(b) Provision of tinnitus evaluation, treatment, or management;

(c) Interpretation of tests of human hearing for any purpose beyond the selection and fitting of hearing aids;

(d) Removal of foreign bodies from the ear; and

(e) Testing and treatment of auditory processing disorders, including the provision of aural rehabilitation or auditory training.

Sec. 16. Section 38-1508, Reissue Revised Statutes of Nebraska, is amended to read:

38-1508 The board shall consist of five professional members and one public member appointed pursuant to section 38-158. Members shall meet the requirements of sections 38-164 and 38-165. The professional members shall consist of three licensed hearing instrument specialists, at least one of whom does not hold a license as an audiologist, one otolaryngologist, and one audiologist. At the expiration of the four-year terms of the members serving on December 1, 2008, successors shall be appointed for five-year terms.

Sec. 17. Section 38-1509, Revised Statutes Cumulative Supplement, 2024, is amended to read:

38-1509 (1)(a) Except as otherwise provided in this section, it shall be unlawful for any person to engage in the practice of ordering the use and fitting of hearing instruments or display a sign or in any other way advertise or represent that the person is engaged in the practice of ordering the use and fitting of hearing instruments unless such person holds a current, unsuspended,

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and unrevoked hearing instrument specialist license issued by the department as provided in the Hearing Instrument Specialists Practice Act.

(b) A hearing instrument specialist license shall confer upon the holder the right to select, fit, and sell hearing instruments.

(2) A licensed audiologist shall be exempt from the requirement to be licensed as a hearing instrument specialist.

(3) A hearing instrument specialist or audiologist may order the use of devices pursuant to 21 C.F.R. 801.109, as such regulation existed on January 1, 2025.

(4)(a) Nothing in the Hearing Instrument Specialists Practice Act shall prohibit a corporation, partnership, limited liability company, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail without a license if it employs only properly licensed natural persons in the direct sale and fitting of such products.

(b) Each such organization shall file annually with the department, on a form provided by the department, a list of the licensed hearing instrument specialists employed by the organization. The department may adopt and promulgate rules and regulations as necessary to carry out this section.

Sec. 18. Section 38-1510, Reissue Revised Statutes of Nebraska, is amended to read:

38-1510 (1) A licensed hearing instrument specialist shall only provide services to an individual who is eighteen years of age or older unless prohibited by federal law.

(2) The Hearing Instrument Specialists Practice Act does not change the scope of practice of a licensed audiologist.

(3) The Hearing Instrument Specialists Practice Act is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing instruments if such person or organization employing such person does not sell hearing instruments or the accessories thereto.

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(4) The Hearing Instrument Specialists Practice Act does not apply to a person who is a physician or audiologist licensed to practice in this state, except that such physician or audiologist shall not delegate the authority to fit and dispense hearing instruments unless the person to whom the authority is delegated is licensed as a hearing instrument specialist under the act.

Sec. 19. Section 38-1511, Reissue Revised Statutes of Nebraska, is amended to read:

38-1511 (1) A licensed hearing instrument specialist shall enter into a written contract for each sale of a hearing instrument which states the terms of the sale.

(2)(a) A licensed hearing instrument specialist shall, at the time of delivery of the hearing instrument, provide the patient with a receipt containing (i) the signature, regular business address, and license number of the licensee, (ii) the brand, model, manufacturer or manufacturer identification code, and serial number of the hearing instrument, and (iii) the amount charged for the hearing instrument.

(b) The receipt shall indicate that the hearing device is classified as programmed with one of the following:

(i) Locked software - this device utilizes locked software that is available to limited providers. The purchase of this device will require the user to have the device programmed by a provider or chain store that has been granted proprietary access to the software. In addition, the availability of any part or service for this device is limited to the provider or chain store that has such proprietary access; or

(ii) Unlocked software - this device utilizes unlocked software that is readily available to any provider or location licensed to provide hearing health care.

(c) The receipt shall also specify (i) whether the hearing instrument is new, used, or rebuilt, as provided in 21 C.F.R. 801.422, as such regulation existed on January 1, 2025, (ii) the length of time and other terms of the guarantee, and (iii) by whom the hearing instrument is guaranteed.

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(3) No hearing instrument may be sold to any person unless both the packaging containing the hearing instrument and the itemized receipt are in compliance with all applicable state and federal laws and regulations.

(4) Upon delivery of the hearing instrument to any person, the licensed hearing instrument specialist shall confirm the physical and operational performance of the hearing instrument. If a patient purchases a hearing instrument from a licensed hearing instrument specialist outside of the licensee's regular place of business and the regular place of business is not within a reasonable distance, as determined by the board, the licensed hearing instrument specialist shall provide the patient with the address of an affiliate location with which the licensee is associated that is within a reasonable distance, at which a licensed hearing instrument specialist or audiologist is available for fitting services.

(5) Any seller offering for sale or selling a hearing instrument in this state or to a resident of this state shall make available in this state an in-person fitting of the hearing instrument by a licensed hearing instrument specialist in this state prior to the sale.

(6) A receipt provided pursuant to this section shall bear in no smaller type than the largest used in the body copy portion the following: The purchaser has been advised at the outset of the relationship with the hearing instrument specialist that any examination or representation made by a licensed hearing instrument specialist in connection with the fitting and selling of this hearing instrument is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefor must not be regarded as medical opinion or advice.

Sec. 20. Section 38-1512, Revised Statutes Cumulative Supplement, 2024, is amended to read:

38-1512 (1) Any person may obtain a hearing instrument specialist license under the Hearing Instrument Specialists Practice Act by successfully passing a qualifying examination pursuant to section 38-1514 if the applicant provides verification to the department, on a form provided by the department, that such

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person:

(a) Is at least twenty-one years of age;

(b) Has an education equivalent to a four-year course in an accredited high school; and

(c)(i) Has completed the minimum number of practicum hours prescribed by the board;

(ii) Has a two-year degree in hearing instrument sciences or an equivalent as determined by the board;

(iii) Has held a current, unsuspended, and unrevoked license to dispense hearing instruments from another jurisdiction for at least twelve of the last eighteen months prior to taking the examination;

(iv) Is certified by the National Board for Certification in Hearing Instrument Sciences at the time of taking the examination; or

(v) Holds an advanced credential offered by the International Hearing Society at the time of taking the examination.

(2) The department, with the recommendation of the board, may determine whether a person who has completed a licensure program outside of the United States may take the examination.

(3) The department, upon recommendation of the board, may waive components of the examination pursuant to section 38-1514 for licensure as a hearing instrument specialist if the person has passed the same examination as provided in section 38-1514 or a substantially equivalent examination as determined by the board.

(4) The department, with the recommendation of the board, shall determine whether a person has met the requirements to be eligible to take the examination pursuant to the Hearing Instrument Specialists Practice Act.

Sec. 21. Section 38-1513, Revised Statutes Cumulative Supplement, 2024, is amended to read:

38-1513 (1) The department, with the recommendation of the board, shall issue a temporary training license to any person who has met the requirements for licensure as a hearing instrument specialist pursuant to subdivisions (1)

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(a) and (b) of section 38-1512. Previous experience or a waiting period shall not be required to obtain a temporary training license.

(2) Any person who desires a temporary training license shall make application to the department. The temporary training license shall be issued for a period of one year. A person holding a valid license as a hearing instrument specialist or an audiologist shall be responsible for the supervision and training of such applicant and shall maintain adequate personal contact with him or her.

(3) If a person who holds a temporary training license under this section has not successfully passed the licensing examination within twelve months of the date of issuance of the temporary training license, the temporary training license may be renewed or reissued for a twelve-month period. In no case may a temporary training license be renewed or reissued more than once. A renewal or reissuance may take place any time after the expiration of the first twelve-month period.

Sec. 22. Section 38-1514, Reissue Revised Statutes of Nebraska, is amended to read:

38-1514 (1) The examination required by section 38-1512 for licensure as a hearing instrument specialist shall be comprised of:

(a) A written or computer-based, psychometrically valid, competency examination approved by the board that tests the examinee for knowledge fundamental to the practice of ordering the use and fitting of hearing instruments;

(b) A practical examination approved by the board that requires the examinee to demonstrate competence in the practice of ordering the use and fitting of hearing instruments; and

(c) A jurisprudence examination approved by the board.

(2)(a) If an examinee fails more than one portion of the practical examination, the examinee shall retake the entire practical examination upon payment of the examination fee.

(b) If an examinee fails only one portion of the practical examination,

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the examinee may retake that portion of the examination without payment of a fee.

(c) If an examinee fails the jurisprudence examination or competency examination, the examinee shall retake the entire examination upon payment of the examination fee.

(d) If an examinee fails either the practical or competency component of the examination and fails two subsequent reexaminations, the examinee shall be disqualified from retaking the examination a fourth time until the examinee meets with the board, presents an acceptable written training plan to the board for passing the components of the examination, and successfully completes that plan.

(3) The qualifying examination provided in section 38-1512 shall be designed to demonstrate the applicant's adequate technical qualifications by:

(a) Tests of knowledge in the following areas as they pertain to the practice of ordering the use and fitting of hearing instruments:

(i) Basic physics of sound;

(ii) The anatomy and physiology of the ear; and

(iii) The function of hearing instruments; and

(b) Practical tests of proficiency in the following techniques as they pertain to the fitting of hearing instruments:

(i) Pure tone audiometry, including air conduction testing and bone conduction testing;

(ii) Live voice or recorded voice speech audiometry;

(iii) Masking when indicated;

(iv) Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing instrument; and

(v) Taking earmold impressions.

Sec. 23. (1) A licensed hearing instrument specialist shall not engage in the practice of ordering the use and fitting of hearing instruments with respect to a patient without having conducted a face-to-face hearing assessment for the patient or having conducted or reviewed a valid and current hearing

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assessment for the patient that is dated within six months and signed by a licensed hearing instrument specialist or audiologist. Such hearing assessment shall include the following procedures, or modified procedures as required by the patient's cognitive function or health and appropriate to technological developments as determined by the board:

(a) Completion of a patient history questionnaire;

(b) Otoscopic examination;

(c) Testing to determine the type and degree of hearing loss that includes (i) pure-tone air conduction testing at two hundred fifty hertz, five hundred hertz, one thousand hertz, two thousand hertz, four thousand hertz, and eight thousand hertz, (ii) bone conduction testing at five hundred hertz, one thousand hertz, two thousand hertz, and four thousand hertz, and (iii) appropriate inter-octave testing when needed if the octave to adjacent octave threshold difference is greater than fifteen decibels;

(d) Effective masking when indicated;

(e) Appropriate testing to determine speech reception thresholds, word recognition scores, most comfortable listening levels, uncomfortable loudness levels, frequency-specific loudness discomfort levels, ability to understand speech in noise, and the selection of the best fitting arrangement for maximum hearing instrument benefit when indicated; and

(f) Other speech tests commonly used to assess human hearing acuity for ordering the use and fitting of hearing instruments.

(2) Each component of a hearing instrument shall be adapted to the needs of the patient. A licensed hearing instrument specialist shall conduct a final fitting to ensure physical fit and operational comfort of the hearing instrument.

Sec. 24. A licensed hearing instrument specialist shall demonstrate the benefit of a hearing instrument fitting by using objective measures.

Sec. 25. A licensed hearing instrument specialist shall determine a patient's benefit with the hearing instrument fitting using validation measures, such as speech audiometry and validated communication assessment

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questionnaires, or any other method approved by the board for ordering the use and fitting of hearing instruments.

Sec. 26. (1) A licensed hearing instrument specialist shall use the following equipment as part of any hearing testing conducted for the purpose of dispensing of hearing instruments:

(a) An audiometer that has been calibrated within the twelve months preceding the test and that meets the specifications set forth under this section; and

(b) A speech audiometer that has been calibrated within the twelve months preceding the test and that meets the specifications set forth under this section.

(2) A licensed hearing instrument specialist shall provide for the calibration of the equipment utilized for hearing assessments required under section 23 of this act and in the dispensing of hearing instruments at least annually in conformance with current standards of the American National Standards Institute for ordering the use and fitting of hearing instruments. A licensed hearing instrument specialist shall annually ensure that audiometric equipment has been evaluated electrically and acoustically, that the equipment has been adjusted or repaired if necessary, and that conformity with such standards was determined at that time. A licensed hearing instrument specialist shall maintain calibration records for ten years and shall make the records available for inspection by the department at any time. A licensed hearing instrument specialist shall also use routine procedures for the daily inspection of audiometric equipment, or prior to use if used less often than daily, to generally determine that the equipment is in normal working order.

(3) A licensed hearing instrument specialist shall provide the following care of the equipment used in the licensee's practice of ordering the use and fitting of hearing instruments:

(a) Hearing instruments, assistive-listening devices, and electronic equipment shall be maintained according to the manufacturer's specifications;

(b) Instrumental technology shall be maintained in proper working order

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and be properly calibrated according to accepted standards; and

(c) Proper infection control and sanitation procedures shall be utilized.

Sec. 27. (1) Prior to engaging in cerumen removal, a licensed hearing instrument specialist shall have held a valid, undisciplined license as a licensed hearing instrument specialist for a minimum of two consecutive years and provide the board with evidence of (a) successful completion of a cerumen removal course pursuant to subsection (3) of this section and (b) professional liability insurance pursuant to subsection (5) of this section. If the licensed hearing instrument specialist continues to engage in cerumen removal, the licensee shall annually provide evidence to the board of professional liability insurance.

(2) If the patient exhibits contraindications to cerumen removal requiring medical consultation or medical intervention, a licensed hearing instrument specialist shall refer the patient to an otolaryngologist or another physician licensed to practice medicine and surgery under the Uniform Credentialing Act. If a licensed hearing instrument specialist engaged in routine cerumen removal discovers any trauma, including, but not limited to, continuous uncontrolled bleeding, lacerations, or other traumatic injuries, the licensee shall, as soon as practicable, seek immediate medical attention for the patient.

(3)(a) Prior to engaging in cerumen removal, a licensed hearing instrument specialist shall complete a cerumen removal course recommended by a national medical or audiology organization and approved by the board and provide the board with evidence of such successful completion and attestation of competence. In order to be approved by the board as a cerumen removal course, the course shall be approved by a national medical or audiology organization and shall:

(i) Be overseen by a physician or an audiologist, preferably an otolaryngologist;

(ii) Consist of at least six hours of practice of cerumen removal from an ear canal model using a variety of safe techniques;

(iii) Include in-person practice of cerumen removal techniques;

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(iv) Include an infectious control component; and

(v) Result in a certificate of successful completion and attestation of competence signed by such physician or audiologist.

(b) The board may, only after consultation with the Board of Medicine and Surgery and the Board of Audiology and Speech-Language Pathology, adopt rules and regulations as provided in section 38-126 to provide requirements for the initial cerumen removal course.

(4) The licensed hearing instrument specialist shall maintain documentation evidencing the satisfactory completion of the training.

(5) A licensed hearing instrument specialist shall carry appropriate professional liability insurance before engaging in cerumen removal.

(6) A licensed hearing instrument specialist shall perform cerumen removal using the customary removal techniques that are commensurate with the licensee's training and experience. Performance of cerumen removal is limited to the patient's cartilaginous outer one-third portion of the external auditory canal.

(7) A licensed hearing instrument specialist engaged in cerumen removal shall comply with the following requirements:

(a) The indications for cerumen removal for a licensed hearing instrument specialist shall include:

(i) Enabling audiometric testing;

(ii) Making ear impressions;

(iii) Fitting ear protection or prosthetic devices; and

(iv) Monitoring continuous use of hearing aids;

(b) The licensed hearing instrument specialist shall refer a patient to an otolaryngologist or another physician licensed under the Uniform Credentialing Act for medical consultation or medical intervention if the patient exhibits any of the following contraindications to cerumen removal:

(i) The patient is younger than eighteen years of age;

(ii) The patient has a perforated tympanic membrane;

(iii) The patient has a history of pain or active drainage or bleeding

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from the ear;

(iv) There is evidence of congenital or traumatic deformity of the ear;

(v) The patient has had previous ear surgery;

(vi) The patient has tympanostomy tubes, such that irrigation should not be used;

(vii) The patient has a bleeding disorder;

(viii) The patient has an actual or suspected foreign body in the ear;

(ix) The patient has a stenosis or bony exostosis of the ear canal;

(x) The patient has a tympanic membrane that the licensed hearing instrument specialist is unable to see; or

(xi) There is any other contraindication to cerumen removal that requires medical consultation or medical intervention; and

(c) If the patient, while undergoing cerumen removal that did not present contraindications, complains of significant pain, exhibits uncontrolled bleeding or a laceration of the external auditory canal, or experiences the acute onset of dizziness or vertigo or sudden hearing loss, the licensed hearing instrument specialist shall immediately stop the procedure and refer the patient to an otolaryngologist or another physician licensed under the Uniform Credentialing Act.

(8) The licensed hearing instrument specialist shall maintain the following proper infection control practices:

(a) Universal health precautions;

(b) Decontamination;

(c) Cleaning, disinfection, and sterilization of multiple-use equipment; and

(d) Universal precautions for prevention of the transmission of human immunodeficiency virus, hepatitis B virus, and other bloodborne pathogens, as defined by occupational safety and health standards promulgated pursuant to 29 C.F.R. 1910, as such regulations existed on January 1, 2025.

(9) The licensed hearing instrument specialist who performs cerumen removal shall maintain a case history for every patient and informed consent

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signed by the patient as part of the patient's records. A licensed hearing instrument specialist shall include in the patient's record video-otoscopy pictures of the patient's ear canal showing cerumen that must be removed and video-otoscopy pictures after the removal of the cerumen.

(10) The licensed hearing instrument specialist shall carry appropriate professional liability insurance before performing cerumen removal.

(11) The licensed hearing instrument specialist is prohibited from requiring patients to sign any form that eliminates liability if the patient is harmed.

(12) A licensed hearing instrument specialist who passes the initial training in cerumen removal shall take one additional hour of continuing education specific to cerumen removal annually, by any approved means, in addition to the required continuing education requirements for the license as a licensed hearing instrument specialist.

Sec. 28. A licensed hearing instrument specialist shall advise a prospective hearing instrument user to consult promptly with an otolaryngologist, or a licensed physician if no otolaryngologist is available, before dispensing a hearing instrument if the licensee determines, through inquiry, actual observation, or review of any other available information concerning the prospective user, that the prospective user has any of the conditions related to warnings found in the regulations of the federal Food and Drug Administration, 21 C.F.R. 801.422, as such regulations existed on January 1, 2025.

Sec. 29. It is a condition of licensure under the Hearing Instrument Specialists Practice Act that a licensed hearing instrument specialist comply with the rules of the federal Food and Drug Administration governing the ordering of the use, fitting, and sales of hearing instruments as prescribed by 21 C.F.R. 801.422, as such regulations existed on January 1, 2025.

Sec. 30. A purchaser of a hearing instrument shall not be required to obtain a medical evaluation for the repurchase of a hearing instrument after a medical evaluation has been obtained for certain otologic conditions that are

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permanent and would be reidentified at each hearing assessment. Such conditions shall include, but not be limited to:

(1) Visible congenital or traumatic deformity of the ear;

(2) Unilateral or asymmetric hearing loss, assuming no change in thresholds; and

(3) Audiometric air-bone gap equal to or greater than fifteen decibels at five hundred hertz, one thousand hertz, and two thousand hertz.

Sec. 31. (1) A licensed hearing instrument specialist shall keep and maintain in the licensee's office or place of business the following records:

(a) Results of tests and other records as they pertain to hearing assessments conducted by the licensed hearing instrument specialist and the dispensing of hearing instruments by the licensed hearing instrument specialist;

(b) A copy of the written contract and, if executed, signed medical evaluation waiver; and

(c) Copies of such other records as the department, with the recommendation of the board, reasonably requires.

(2) Any such record shall be kept and maintained by the licensed hearing instrument specialist for a period of seven years after the date the record was produced.

Sec. 32. A licensed hearing instrument specialist who is certified by the National Board for Certification in Hearing Instrument Sciences or has an advanced credential recognized by the board may work for a company or organization as a trainer and provide specialized training in the practical application of hearing instrument sciences.

Sec. 33. Section 38-2849, Reissue Revised Statutes of Nebraska, is amended to read:

38-2849 The board shall be composed of eight members, including five actively practicing pharmacists, at least one of whom practices within the confines of a hospital, one pharmacy technician, and two public members who are interested in the health of the people of Nebraska.

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Sec. 34. Section 38-2884, Reissue Revised Statutes of Nebraska, is amended to read:

38-2884 Under a delegated dispensing permit for a public health clinic, approved formulary drugs and devices may be dispensed by a public health clinic worker or a health care professional licensed in Nebraska to practice medicine and surgery or licensed in Nebraska as a registered nurse, licensed practical nurse, or physician assistant without the onsite services of a pharmacist if:

(1) The initial dispensing of all prescriptions for approved formulary drugs and devices is conducted by a health care professional licensed in Nebraska to practice medicine and surgery or pharmacy or licensed in Nebraska as a registered nurse, licensed practical nurse, or physician assistant;

(2) The drug or device is dispensed pursuant to a prescription written onsite by a practitioner or by a practitioner licensed in Nebraska working in affiliation with a public health clinic pursuant to a delegated dispensing permit;

(3) The only prescriptions to be refilled under the delegated dispensing permit are prescriptions for contraceptives;

(4) Prescriptions are accompanied by patient instructions and written information approved by the director;

(5) The dispensing of authorized refills of contraceptives is done by a licensed health care professional listed in subdivision (1) of this section or by a public health clinic worker;

(6) All drugs or devices are prepackaged by the manufacturer or at a public health clinic by a pharmacist into the quantity to be prescribed and dispensed at the public health clinic;

(7) All drugs and devices stored, received, or dispensed under the authority of public health clinics are properly labeled at all times. For purposes of this subdivision, properly labeled means that the label affixed to the container prior to dispensing contains the following information:

(a) The name of the manufacturer;

(b) The lot number and expiration date from the manufacturer or, if

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repackaged by a pharmacist, the lot number and calculated expiration date;

(c) Directions for patient use;

(d) The quantity of drug in the container;

(e) The name, strength, and dosage form of the drug; and

(f) Auxiliary labels as needed for proper adherence to any prescription;

(8) The following additional information is added to the label of each container when the drug or device is dispensed:

(a) The patient's name;

(b) The name of the prescribing health care professional;

(c) The prescription number;

(d) The date dispensed; and

(e) The name and address of the public health clinic;

(9) The only drugs and devices allowed to be dispensed or stored by public health clinics appear on the formulary approved pursuant to section 38-2881; and

(10) At any time that dispensing is occurring from a public health clinic, the delegating pharmacist for the public health clinic or on-call pharmacist in Nebraska is available, either in person or by telephone, to answer questions from clients, staff, public health clinic workers, or volunteers. This availability shall be confirmed and documented at the beginning of each day that dispensing will occur. The delegating pharmacist or on-call pharmacist shall inform the public health clinic if he or she will not be available during the time that his or her availability is required. If a pharmacist is unavailable, no dispensing shall occur.

Sec. 35. Section 38-28,104, Revised Statutes Cumulative Supplement, 2024, is amended to read:

38-28,104 (1) A prescription for a legend drug which is not a controlled substance must contain the following information prior to being filled by a pharmacist or a practitioner who holds a pharmacy license under subdivision (1) of section 38-2850: Patient's name, or if not issued for a specific patient, the words "for emergency use" or "for use in immunizations"; name of the drug,

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device, or biological; strength of the drug or biological, if applicable; dosage form of the drug or biological; quantity of drug, device, or biological prescribed; number of authorized refills; directions for use; date of issuance; prescribing practitioner's name; and if the prescription is written, prescribing practitioner's signature. Prescriptions for controlled substances must meet the requirements of sections 28-414 and 28-414.01.

(2) If a pharmacist receives a request for a prescription refill with no refill authorization and the pharmacist is unable to obtain a refill authorization from the prescribing practitioner after making reasonable efforts, the pharmacist may dispense an emergency refill if:

(a) The pharmacist obtains prescription information from: (i) A prescription label; (ii) a prescription record located in any pharmacy; or (iii) a common database;

(b) The prescription refill is not for a controlled substance;

(c) The prescription refill is for a maintenance medication;

(d) In the pharmacist's professional judgment, failure to dispense the refill is likely to endanger the patient's health or disrupt essential drug therapy for the patient;

(e) The pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without the prescriber's authorization and that prescriber authorization is required for future refills;

(f) The prescription refill is documented in the patient's prescription record;

(g) The pharmacist informs the prescriber within seventy-two hours of dispensing the refill; and

(h) The prescription refill is dispensed in person or delivered by staff of the pharmacy.

(3) A refill provided pursuant to subsection (2) of this section shall not be (a) dispensed in an amount greater than a seven-day supply, except that if the drug is packaged in a form that requires a pharmacist to dispense the drug in an amount greater than a seven-day supply, the pharmacist may dispense the

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drug in the smallest quantity in which the drug is typically packaged and (b) dispensed to the same patient more than one time in any six-month period.

(4) The prescriber of a drug shall not be liable or subject to disciplinary action for an act or omission in connection with dispensing a refill pursuant to subsection (2) of this section.

Sec. 36. Section 68-911, Revised Statutes Cumulative Supplement, 2024, is amended to read:

68-911 (1) Medical assistance shall include coverage for health care and related services as required under Title XIX of the federal Social Security Act, including, but not limited to:

(a) Inpatient and outpatient hospital services;

(b) Laboratory and X-ray services;

(c) Nursing facility services;

(d) Home health services;

(e) Nursing services;

(f) Clinic services;

(g) Physician services;

(h) Medical and surgical services of a dentist;

(i) Nurse practitioner services;

(j) Nurse midwife services;

(k) Pregnancy-related services;

(l) Medical supplies;

(m) Mental health and substance abuse services;

(n) Early and periodic screening and diagnosis and treatment services for children which shall include both physical and behavioral health screening, diagnosis, and treatment services;

(o) Rural health clinic services; and

(p) Federally qualified health center services.

(2) In addition to coverage otherwise required under this section, medical assistance may include coverage for health care and related services as permitted but not required under Title XIX of the federal Social Security Act,

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including, but not limited to:

(a) Prescribed drugs;

(b) Intermediate care facilities for persons with developmental disabilities;

(c) Home and community-based services for aged persons and persons with disabilities;

(d) Dental services;

(e) Rehabilitation services;

(f) Personal care services;

(g) Durable medical equipment;

(h) Medical transportation services;

(i) Vision-related services;

(j) Speech therapy services;

(k) Physical therapy services;

(l) Chiropractic services;

(m) Occupational therapy services;

(n) Optometric services;

(o) Podiatric services;

(p) Hospice services;

(q) Mental health and substance abuse services;

(r) Hearing screening services for newborn and infant children; and

(s) Administrative expenses related to administrative activities, including outreach services, provided by school districts and educational service units to students who are eligible or potentially eligible for medical assistance.

(3) No later than July 1, 2009, the department shall submit a state plan amendment or waiver to the federal Centers for Medicare and Medicaid Services to provide coverage under the medical assistance program for community-based secure residential and subacute behavioral health services for all eligible recipients, without regard to whether the recipient has been ordered by a mental health board under the Nebraska Mental Health Commitment Act to receive

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such services.

(4) On or before October 1, 2014, the department, after consultation with the State Department of Education, shall submit a state plan amendment to the federal Centers for Medicare and Medicaid Services, as necessary, to provide that the following are direct reimbursable services when provided by school districts as part of an individualized education program or an individualized family service plan: Early and periodic screening, diagnosis, and treatment services for children; medical transportation services; mental health services; nursing services; occupational therapy services; personal care services; physical therapy services; rehabilitation services; speech therapy and other services for individuals with speech, hearing, or language disorders; and vision-related services.

(5)(a) No later than January 1, 2023, the department shall provide coverage for continuous glucose monitors under the medical assistance program for all eligible recipients who have a prescription for such device.

(b) Effective August 1, 2024, eligible recipients shall include all individuals who meet local coverage determinations, as defined in section 1869(f)(2)(B) of the federal Social Security Act, as amended, as such act existed on January 1, 2024, and shall include individuals with gestational diabetes.

(c) It is the intent of the Legislature that no more than six hundred thousand dollars be appropriated annually from the Medicaid Managed Care Excess Profit Fund, as described in section 68-996, for the purpose of implementing subdivision (5)(b) of this section. Any amount in excess of six hundred thousand dollars shall be funded by the Medicaid Managed Care Excess Profit Fund.

(6) On or before October 1, 2023, the department shall seek federal approval for federal matching funds from the federal Centers for Medicare and Medicaid Services through a state plan amendment or waiver to extend postpartum coverage for beneficiaries from sixty days to at least six months. Nothing in this subsection shall preclude the department from submitting a state plan

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amendment for twelve months.

(7)(a) No later than October 1, 2025, the department shall submit a medicaid waiver or state plan amendment to the federal Centers for Medicare and Medicaid Services to designate two medical respite facilities to reimburse for services provided to an individual who is:

(i) Homeless; and

(ii) An adult in the expansion population.

(b) For purposes of this subsection:

(i) Adult in the expansion population means an adult (A) described in 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) as such section existed on January 1, 2024, and (B) not otherwise eligible for medicaid as a mandatory categorically needy individual;

(ii) Homeless has the same meaning as provided in 42 U.S.C. 11302 as such section existed on January 1, 2024;

(iii) Medical respite care means short-term housing with supportive medical services; and

(iv) Medical respite facility means a residential facility that provides medical respite care to homeless individuals.

(c) The department shall choose two medical respite facilities, one in a city of the metropolitan class and one in a city of the primary class, best able to serve homeless individuals who are adults in the expansion population.

(d) Once such waiver or state plan amendment is approved, the department shall submit a report to the Health and Human Services Committee of the Legislature on or before November 30 each year, which provides the (i) number of homeless individuals served at each facility, (ii) cost of the program, and (iii) amount of reduction in health care costs due to the program's implementation.

(e) The department may adopt and promulgate rules and regulations to carry out this subsection.

(f) The services described in subdivision (7)(a) of this section shall be funded by the Medicaid Managed Care Excess Profit Fund as described in section

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68-996.

(8)(a) No later than January 1, 2025, the department shall provide coverage for an electric personal-use breast pump for every pregnant woman covered under the medical assistance program, or child covered under the medical assistance program if the pregnant woman is not covered, beginning at thirty-six weeks gestation or the child's date of birth, whichever is earlier. The electric personal-use breast pump shall be capable of (i) sufficiently supporting milk supply, (ii) double and single side pumping, and (iii) suction power ranging from zero mmHg to two hundred fifty mmHg. No later than January 1, 2025, the department shall provide coverage for a minimum of ten lactation consultation visits for every mother covered under the medical assistance program or child covered under the medical assistance program, if the mother is not covered under such program.

(b) It is the intent of the Legislature that the appropriation for lactation consultation visits shall be equal to an amount that is a one hundred forty-five percent rate increase over the current lactation consultation rate paid by the department.

(9)(a) No later than January 1, 2024, the department shall provide coverage, and reimbursement to providers, for all necessary translation and interpretation services for eligible recipients utilizing a medical assistance program service. The department shall take all actions necessary to maximize federal funding to carry out this subsection.

(b) The services described in subdivision (9)(a) of this section shall be funded by the Medicaid Managed Care Excess Profit Fund as described in section 68-996.

(10) No later than January 1, 2026, the department shall provide coverage for psychology services provided by advanced level practitioners who have completed advanced training requirements for a doctoral internship in an accredited training program or a postdoctoral fellowship and who are under current supervision by a licensed psychologist.

Sec. 37. (1) For purposes of this section, program means the Rural Health

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Opportunity Program that encourages students from rural communities to pursue health care professions and return to practice in those rural communities.

(2)(a) The Board of Trustees of the Nebraska State Colleges and the Board of Regents of the University of Nebraska shall enter into a memorandum of understanding to administer the program, including a joint application and interview process to select students to participate in the program and be provisionally admitted into one of the eligible health care programs at the University of Nebraska Medical Center.

(b) To be eligible, students shall:

(i) Attend, or be a graduate of, an approved or accredited high school in Nebraska or receive an equivalent of a diploma of high school equivalency in Nebraska; and

(ii) Have lived in, or been a resident of, a rural area of Nebraska as determined by the Board of Trustees of the Nebraska State Colleges and the Board of Regents of the University of Nebraska.

(3) A student who participates in the program is entitled to a waiver of one hundred percent of the cost of tuition and fees per academic year for up to four years at a state college for the purpose of completing the established health care program coursework at such state college that is required for early admission and transfer to an eligible health care program at the University of Nebraska Medical Center.

(4) It is the intent of the Legislature to consider continued funding for the program in an appropriate amount equal to or more than one-half of the cost of the tuition waivers or fees granted pursuant to this section as part of the biennial budget process.

Sec. 38. Sections 1, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, and 41 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 39. Original sections 38-511, 38-1501, 38-1502, 38-1504, 38-1505,

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38-1508, 38-1510, 38-1511, 38-1514, 38-2849, and 38-2884, Reissue Revised Statutes of Nebraska, and sections 38-1509, 38-1512, 38-1513, 38-28,104, and 68-911, Revised Statutes Cumulative Supplement, 2024, are repealed.

Sec. 40. Original sections 38-1401, 38-1402, 38-1413, and 38-1424, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 41. The following sections are outright repealed: Sections 38-512 and 38-1506, Reissue Revised Statutes of Nebraska.

Sec. 42. Since an emergency exists, this act takes effect when passed and approved according to law.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 332 was passed by the One Hundred Ninth Legislature of Nebraska at its First Session on the ..... day of ..... 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., ... o'clock .....M.

GOVERNOR