

## LEGISLATIVE BILL 1062

Approved by the Governor April 19, 2002

Introduced by Health and Human Services Committee: Jensen, 20, Chairperson;  
Byars, 30; Cunningham, 18; Erdman, 47; Maxwell, 9; Price, 26;  
Suttle, 10

AN ACT relating to health and human services; to amend sections 44-3,144, 44-3,145, 44-3,146, 44-3,149, 44-2901, 71-1,132.04, 71-1,132.06, 71-1,132.16, 71-1,132.18, 71-1,132.24, 71-1,132.25, 71-1,132.35, 71-1,231, 71-1729, 71-1757, 71-1761, 71-1787, 71-2412, 71-6057, 71-6603, and 83-126, Reissue Revised Statutes of Nebraska, sections 23-3502, 42-358, 43-3342.01, 43-3342.03, 43-3342.05, 71-131, 71-139.01, 71-1,103, 71-1,104, 71-1,132.07, 71-1,132.11, 71-1,132.13, 71-1,132.20, 71-1,134, 71-1,136.03, 71-1,139.01, 71-1,158, 71-1,160, 71-1,161, 71-404, 71-428, 71-432, 71-434, 71-436, 71-438, 71-456, 71-1723.02, 71-6053, 71-6054, 71-6056, 71-6060, 71-6061, 71-6065, 71-6066, and 81-1316, Revised Statutes Supplement, 2000, and sections 71-101, 71-183.02, 71-193.16, 71-1,147.53, 71-2421, 71-5310, and 71-7611.04, Revised Statutes Supplement, 2001; to change provisions relating to county medical facility boards of trustees, child support enforcement, the State Disbursement Advisory Commission, and licenses to practice medicine and surgery, dentistry, nursing, optometry, osteopathic medicine and veterinary medicine, and respiratory care; to provide for optometric assistants and hospital patient visitation privileges; to change provisions relating to drug expiration dates, health care facility licensure, nursing home administration, respite care programs, and facilities under the supervision of the Department of Health and Human Services; to eliminate the Child Support Commission; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to repeal the original sections; to outright repeal sections 42-383 to 42-386, Revised Statutes Supplement, 2000; and to declare an emergency.

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

Section 1. Section 23-3502, Revised Statutes Supplement, 2000, is amended to read:

23-3502. (1) (a) When a county with a population of three thousand six hundred or more and less than two hundred thousand inhabitants or with a taxable value of the taxable property of twenty-eight million six hundred thousand dollars or more establishes a facility or facilities as provided by section 23-3501, the county board of the county shall proceed at once to appoint a board of trustees. Such board shall consist of three, five, or seven members as fixed by the county board. All members of the board shall be residents of such county.

(b) When the board is first established, one member shall be appointed for a term of two years, one for four years, and one for six years from the date they are appointed if the county board provides for a three-member board.

If the county board provides for a five-member board, one additional member shall be appointed for four years and one for six years. When the board is changed to a five-member board, the three members who are serving as such trustees at the time of a change from a three-member to a five-member board shall each complete his or her respective term of office. The two additional members shall be appointed by the county board, one for a term of four years and one for a term of six years. Thereafter, as their terms expire, members shall be appointed for terms of six years.

If the county board provides for a seven-member board, one additional member shall be appointed for two years and one for four years. When the board is changed to a seven-member board, the three or five members who are serving as such trustees at the time of the change shall each complete his or her respective term of office. The two or four additional members shall be appointed by the county board. If two additional members are appointed, one shall be appointed for four years and one for six years. If four additional members are appointed, one shall be appointed for two years, two for four years, and one for six years.

(2) ~~Except in any county having a population of more than three hundred thousand inhabitants, not over two members of the board of trustees shall be from the city in which such facility or facilities are located.~~ In

any county having a population of more than three hundred thousand inhabitants, a minimum of one member of the board of trustees shall be a resident of the county and shall reside outside the corporate limits of the city in which such facility or facilities are located. In any county having a population of more than three hundred thousand inhabitants, if only one member of the board of trustees resides outside the corporate limits of the city in which the facility or facilities are located and the residence of the member is annexed by the city, he or she shall be allowed to complete his or her term of office but shall not be eligible for reappointment. The trustees shall, within ten days after their appointment, qualify by taking the oath of county officers and by furnishing a bond in an amount to be fixed by the county board. They shall organize as a board of trustees by the election of one of their number as chairperson, one as secretary, and one as treasurer, except that in counties with two hundred thousand inhabitants or more, the county treasurer of the county in which such facility or facilities are located shall be the treasurer of the board of trustees. The treasurer shall receive and pay out all the money under the control of such board as ordered by it and shall report such expenditures and receipts to the county board on a monthly basis and as required by section 23-3507. The monthly report shall include a statement of the amount of currently outstanding registered warrants.

(3) (a) When a member or trustee is absent from three consecutive board meetings either regular or special without being excused by the remaining members of the board, his or her office shall become vacant and a new member shall be appointed by the county board to fill the vacancy for the unexpired term of such member pursuant to subdivision (3) (b) of this section. Such vacancy shall become effective when the county board finds that there is such a vacancy or fills the same as provided in this subsection.

(b) Any member of such board may at any time be removed from office by the county board. Vacancies shall be filled in substantially the same manner as the original appointments are made. The person appointed to fill such a vacancy shall hold office for the unexpired term.

(4) In counties having a population of two hundred thousand inhabitants or more, the county board of the county having such facility or facilities, in lieu of appointing a board of trustees of such facility or facilities, may elect to serve as the board of trustees of such facility or facilities. If the county board makes such election, the county board shall assume all the duties and responsibilities of the board of trustees of the institution. Such election shall be evidenced by the adoption of a resolution by the county board.

Sec. 2. Section 42-358, Revised Statutes Supplement, 2000, is amended to read:

42-358. (1) The court may appoint an attorney to protect the interests of any minor children of the parties. Such attorney shall be empowered to make independent investigations and to cause witnesses to appear and testify on matters pertinent to the welfare of the children. The court shall by order fix the fee, including disbursements, for such attorney, which amount shall be taxed as costs and paid by the parties as ordered. If the court finds that the party responsible is indigent, the court may order the county to pay the costs.

(2) Following entry of any decree, the court having jurisdiction over the minor children of the parties may at any time appoint an attorney, as friend of the court, to initiate contempt proceedings for failure of any party to comply with an order of the court directing such party to pay temporary or permanent child support. The county attorney or authorized attorney may be appointed by the court for the purposes provided in this section, in which case the county attorney or authorized attorney shall represent the state.

(3) The clerk of each district court shall maintain records of support orders. The Title IV-D Division shall maintain support order payment records pursuant to section 43-3342.01 and the clerk of each district court shall maintain records of payments received pursuant to section 42-369 and section 43-3342.01. For support orders in all cases issued before September 6, 1991, and for support orders issued or modified on or after September 6, 1991, in cases in which no party has applied for services under Title IV-D of the federal Social Security Act, as amended, each month the ~~State Disbursement Unit~~ Title IV-D Division shall certify all cases in which the support order payment is delinquent in an amount equal to the support due and payable for a one-month period of time to the judge presiding over domestic relations cases and to the county attorney or authorized attorney. A rebuttable presumption of contempt shall be established if a prima facie showing is made that the court-ordered child or spousal support is delinquent. In cases in which one of the parties receives services under Title IV-D of the federal Social Security Act, as amended, the ~~State Disbursement Unit~~ Title IV-D Division

shall certify all such delinquent support order payments to the county attorney or the authorized attorney.

In each case certified, if income withholding has not been implemented it shall be implemented pursuant to the Income Withholding for Child Support Act. If income withholding is not feasible and no other action is pending for the collection of support payments, the court shall appoint an attorney to commence contempt of court proceedings. If the county attorney or authorized attorney consents, he or she may be appointed for such purpose. The contempt proceeding shall be instituted within ten days following appointment, and the case shall be diligently prosecuted to completion. The court shall by order fix the fee, including disbursements, for such attorney, which amount shall be taxed as costs and paid by the parties as ordered. Any fees allowed for the services of any county attorney or authorized attorney shall be paid to the Department of Health and Human Services when there is an assignment of support to the department pursuant to section 43-512.07 or when an application for child support services is on file with a county attorney or authorized attorney. If the court finds the party responsible is indigent, the court may order the county to pay the costs.

(4) If, at the hearing, the person owing child or spousal support is called for examination as an adverse party and such person refuses to answer upon the ground that his or her testimony may be incriminating, the court may, upon the motion of the county attorney or authorized attorney, require the person to answer and produce the evidence. In such a case the evidence produced shall not be admissible in any criminal case against such person nor shall any evidence obtained because of the knowledge gained by such evidence be so admissible.

(5) The court may order access to all revenue information maintained by the Department of Revenue or other agencies concerning the income of persons liable or who pursuant to this section and sections 42-358.08 and 42-821 may be found liable to pay child or spousal support payments.

(6) Any person aggrieved by a determination of the court may appeal such decision to the Court of Appeals.

Sec. 3. Section 43-3342.01, Revised Statutes Supplement, 2000, is amended to read:

43-3342.01. (1) The responsibilities of the State Disbursement Unit shall include the following:

(a) Receipt of payments, except payments made pursuant to subdivisions (1)(a) and (1)(b) of section 42-369, and disbursements of such payments to obligees, the department, and the agencies of other states;

(b) Accurate identification of payments;

(c) Prompt disbursement of the obligee's share of any payments;

(d) Furnishing to any obligor or obligee, upon request, timely information on the current status of support order payments; and

(e) One location for employers to send income withholding payments.

(2) The Title IV-D Division shall maintain records of payments for all cases in which support order payments are made to the central office of the State Disbursement Unit using the statewide automated data processing and retrieval system. The Title IV-D Division shall not be required to convert and maintain records of support order payments kept by the clerk of the district court before ~~April 17, 2000~~, the date that the State Disbursement Unit becomes operative or records of payments received by the clerk pursuant to section 42-369.

(3) A true copy of the record of payments, balances, and arrearages maintained by the Title IV-D Division is prima facie evidence, without further proof or foundation, of the balance of any amount of support order payments that are in arrears on the date the State Disbursement Unit becomes operative and of all payments made and disbursed to the person or agency to whom the support order payment is to be made after the date the unit becomes operative. Such evidence shall be considered to be satisfactorily authenticated, shall be admitted as prima facie evidence of the transactions shown in such evidence, and is rebuttable only by a specific evidentiary showing to the contrary.

(4) A copy of support payment records maintained by the Title IV-D Division shall be considered to be a true copy of the record when certified by a person designated by the division pursuant to the rules and regulations adopted and promulgated pursuant to this section.

Sec. 4. Section 43-3342.03, Revised Statutes Supplement, 2000, is amended to read:

43-3342.03. (1) All support orders shall direct payment of support as provided in section 42-369. Any support order issued prior to ~~April 17, 2000~~, the date that the State Disbursement Unit becomes operative for which the payment is to be made to the clerk of the district court shall be deemed to require payment to the State Disbursement Unit after a notice to the

obligor is issued.

(2) The unit may collect a fee equal to the actual cost of processing any payment made with insufficient funds. After a payor has originated two payments made with insufficient funds within a period of one year, the unit shall issue a notice to the originator that, for the following year, any payment shall be required to be paid by cash, guaranteed funds, or wire funds transfer. After a payor has originated three payments made with insufficient funds, the unit shall issue a notice to the originator that all future payments shall be paid by cash, guaranteed funds, or wire funds transfer, except that pursuant to rule and regulation and at least two years after such issuance of notice, the unit may waive for good cause shown such requirements for methods of payment.

~~(2) The unit may collect a fee equal to the actual cost of processing an insufficient funds check. After a payor has originated two insufficient funds checks within a period of six months, the unit may issue a notice to the originator that, for the following year, no checks will be accepted from such person and payments are required to be paid by cash, guaranteed funds, or electronic funds transfer.~~

Sec. 5. Section 43-3342.05, Revised Statutes Supplement, 2000, is amended to read:

43-3342.05. (1) The State Disbursement and Child Support Advisory Commission is created. Commission members shall include:

(a) One Two district court judge judges whose jurisdiction includes domestic relations;

(b) One representative of the Governor's office member of the Nebraska State Bar Association who practices primarily in the area of domestic relations;

(c) One county attorney who works in child support;

(d) One professional who works in the field of economics or mathematics or another field of expertise relevant to child support; One district court clerk;

~~(e) One child support worker;~~

~~(f) One member~~

(e) Two members of the Legislature;

~~(g) One employer, with more than seventy-five employees, who provides income withholding;~~

~~(h) One employer, with less than twenty-five employees, who provides income withholding;~~

~~(i) (f) One custodial parent who has a court order to receive child support;~~

~~(j) (g) One noncustodial parent who is under a support order to pay child support;~~

~~(k) (h) The vendor operating the State Disbursement Unit or his or her designee as an ex officio member;~~

(i) The State Court Administrator or his or her designee as an ex officio member; and

~~(l) (j) The director of the Title IV-D Division or his or her designee as an ex officio member.~~

(2) (a) The terms of all members on the State Disbursement Advisory Commission, as established by Laws 2000, LB 972, shall terminate on June 30, 2002. The Executive Board of the Legislative Council shall appoint the members of the ~~commission~~ State Disbursement and Child Support Advisory Commission under subdivisions (1) (a) through ~~(l)-(j)~~ (1) (g) of this section. The initial members of the commission shall be appointed no later than June 1, 2000. Members shall serve terms of two years, except that the initial terms of members appointed for terms commencing on July 1, 2002, under subdivisions (1) (f) through ~~(l)-(j)~~ (1) (g) of this section shall be one year to provide for staggered terms for commission members. In the case of a vacancy, a successor shall be appointed for the unexpired term by the Executive Board of the Legislative Council. Members whose terms have expired shall continue to serve until their successors have been appointed. The commission shall select a chairperson, annually, from its membership. A chairperson may serve more than one year. Members shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

(b) If determined to be necessary to perform the duties of the commission, the commission may hire, contract, or otherwise obtain the services of consultants, researchers, aides, and other necessary support staff with prior approval of the chairperson of the Executive Board of the Legislative Council.

(c) For administrative purposes, the commission shall be managed and administered by the Legislative Council.

(3) The commission shall meet at least quarterly. The duties of the commission shall include, but are not limited to:

(a) Recommending to the department, if appropriate, ways to improve or enhance the effectiveness of the State Disbursement Unit and the Customer Service Unit;

(b) Recommending performance indicators for the State Disbursement Unit and the Customer Service Unit;

(c) Recommending legislation which would clarify and improve state law regarding support for children as it relates to the State Disbursement Unit; ~~and~~

(d) Addressing any child support issues generally as such issues effect the State of Nebraska and its citizens;

(e) Reviewing the child support guidelines adopted by the Supreme Court and recommending, if appropriate, any amendments to the guidelines. Whenever practicable, the commission shall base its recommendations on economic data and statistics collected in the State of Nebraska. In reviewing the guidelines and formulating recommendations, the commission may conduct public hearings around the state;

(f) Monitoring federal legislation and making recommendations for changing state law as needed; and

(g) Presenting an annual report reports, as deemed necessary, of its activities and recommendations to the Supreme Court and the Executive Board of the Legislative Council. by January 1 of each year.

(4) The Supreme Court shall review the commission's reports. The Supreme Court may amend the child support guidelines established pursuant to section 42-364.16 based upon the commission's recommendations.

Sec. 6. Section 44-3,144, Reissue Revised Statutes of Nebraska, is amended to read:

44-3,144. For purposes of sections 44-3,144 to 44-3,150:

(1) Authorized attorney has the same meaning as in section 43-512;

(2) Child means an individual to whom or on whose behalf a legal duty of support is owed by an obligor;

(3) Department ~~shall mean~~ means the Department of Health and Human Services;

~~(2)~~ (4) Employer means an individual, a firm, a partnership, a corporation, an association, a union, a political subdivision, a state agency, or any agent thereof who pays income to an obligor on a periodic basis and has or provides health care coverage to the obligor-employee;

(5) Health care coverage means a health benefit plan or combination of plans, other than public medical assistance programs, that provide medical care or benefits;

(6) Insurer ~~shall mean~~ means an entity insurer as defined in section 44-103 offering a group health plan as defined in 29 U.S.C. 1167, as such section existed on January 1, 2002; ~~or a health maintenance organization, an entity offering a service benefit plan, and an insurer as defined in section 44-103; and~~

(7) Medical support means the provision of health care coverage, contribution to the cost of health care coverage, contribution to expenses associated with the birth of a child, other uninsured medical expenses of a child, or any combination thereof;

~~(3)~~ (8) Medical assistance program ~~shall mean~~ means the program established pursuant to sections 68-1018 to 68-1025;

(9) National medical support notice means a uniform administrative notice issued by the county attorney, authorized attorney, or department to enforce the medical support provisions of a support order;

(10) Obligee has the same meaning as in section 43-3341;

(11) Obligor has the same meaning as in section 43-3341;

(12) Plan administrator means the person or entity that administers health care coverage for an employer;

(13) Qualified medical child support order means an order that meets the requirements of 29 U.S.C. 1169, as such section existed on January 1, 2002; and

(14) Uninsured medical expenses means the reasonable and necessary health-related expenses that are not paid by health care coverage.

Sec. 7. Section 44-3,145, Reissue Revised Statutes of Nebraska, is amended to read:

44-3,145. An insurer shall not deny enrollment of a child under the health care coverage of the ~~child's parent~~ obligor on the ground that:

(1) The child was born out of wedlock;

(2) The child is not claimed as a dependent on the ~~parent's~~ obligor's federal income tax return; or

(3) The child does not reside with the ~~parent~~ obligor or in the

insurer's service area.

Sec. 8. Section 44-3,146, Reissue Revised Statutes of Nebraska, is amended to read:

44-3,146. (1) An insurer shall, in any case in which a ~~parent~~ obligor is required by a court or administrative order to provide health care coverage for a child and the ~~parent~~ obligor is eligible for family health care coverage through the insurer:

(a) Permit ~~such parent~~ an obligor to enroll under such family health care coverage any such child who is otherwise eligible for such coverage without regard to any enrollment season restriction;

(b) If ~~such a parent~~ an obligor is covered but fails to make application to obtain coverage for such child, enroll such child under such family health care coverage upon application by (i) the ~~child's other parent obligee~~ without regard to any enrollment season restriction, (ii) in any case in which services are provided under Title IV-D of the federal Social Security Act, as amended such act existed on January 1, 2002, the county attorney or authorized attorney without regard to any enrollment season restriction, or (iii) in any case in which services are not provided under Title IV-D of the federal Social Security Act, as amended such act existed on January 1, 2002, the department without regard to any enrollment season restriction; and

(c) Not cancel or eliminate health care coverage for any such child unless the insurer is provided satisfactory written evidence that (i) such court or administrative order is no longer in effect or (ii) the child is or will be enrolled in comparable health care coverage through another insurer which will take effect not later than the effective date of such cancellation or elimination.

(2) An employer doing business in this state shall, in any case in which a ~~parent~~ obligor is required by a court or administrative order to provide health care coverage for a child and the ~~parent~~ obligor is eligible for family health care coverage through the employer:

(a) Permit ~~such parent~~ an obligor to enroll under such family health care coverage any such child who is otherwise eligible for such coverage without regard to any enrollment season restriction;

(b) If ~~such a parent~~ an obligor is covered but fails to make application to obtain coverage for such child, enroll such child under such family health care coverage upon application by (i) the ~~child's other parent obligee~~ without regard to any enrollment season restriction, (ii) in any case in which services are provided under Title IV-D of the federal Social Security Act, as amended such act existed on January 1, 2002, the county attorney or authorized attorney without regard to any enrollment season restriction, or (iii) in any case in which services are not provided under Title IV-D of the federal Social Security Act, as amended such act existed on January 1, 2002, the department without regard to any enrollment season restriction; and

(c) Not cancel or eliminate health care coverage for any such child unless (i) the employer is provided satisfactory written evidence that (A) such court or administrative order is no longer in effect or (B) the child is or will be enrolled in comparable health care coverage which will take effect not later than the effective date of such cancellation or elimination or (ii) the employer has eliminated family health care coverage for all of its employees.

Upon enrollment pursuant to this subsection, premiums shall be deducted from the ~~parent's obligor's~~ compensation and remitted directly to the insurer. The amount withheld shall not exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, as such act existed on January 1, 2002. Amounts withheld pursuant to the Income Withholding for Child Support Act shall have priority over amounts withheld pursuant to this subsection. An employer receiving a national medical support notice shall transmit the notice to the plan administrator within twenty business days after receipt of the notice from the county attorney, authorized attorney, or department.

(3) If an obligor is ordered to provide health care coverage for a child in any case in which services are provided under Title IV-D of the federal Social Security Act, as such act existed on January 1, 2002, the county attorney, authorized attorney, or department shall send a national medical support notice to any employer of the obligor within two business days after receipt of information regarding employment under the New Hire Reporting Act. A notice to enroll national medical support notice sent by the county attorney, authorized attorney, or department to an insurer or employer pursuant to this section shall have the same effect as an enrollment application signed by the parent obligor. Prior to sending a notice to enroll, the The county attorney, authorized attorney, or department shall send a copy of the national medical support notice to the ~~parent of intent to~~

~~enforce the court or administrative order obligor~~ by mail at his or her last-known address stating:

(a) The court or administrative order upon which the enforcement action is being taken;

(b) That if the county attorney, authorized attorney, or department sends a national medical support notice to enroll a child to an employer, the county attorney, authorized attorney, or department will also direct the employer to withhold from the employee's compensation the employee's share of the premium for health care coverage; and

(c) That within fifteen days after receiving the notice the ~~parent obligor~~ may request a hearing to contest the enforcement action based upon evidence that (i) there is an error in the identity of the obligor, (ii) he or she has enrolled the child in an insurance plan providing coverage required by the order, (iii) the parties have stipulated to, and the court or administrative order specifically provides for, an alternative to employer-based health care coverage, or (iv) ~~ex~~ evidence that the premium cost to the ~~parent~~ obligor exceeds the amount stated in subsection (2) of this section or is otherwise unreasonable.

If a hearing is requested, the department shall hold the hearing within fifteen days after the request, and the department shall notify the ~~parent~~ obligor of its decision within fifteen days after the date the hearing is held. ~~Notice to enroll~~ A national medical support notice sent by the county attorney, authorized attorney, or department to the ~~parent's insurer or~~ obligor's employer shall not be held in abeyance pending the outcome of the hearing.

(4) The remedy provided in this section shall be in addition to and not in substitution for any other remedy and shall apply without regard to when the order was issued.

(5) An insurer or employer shall, upon request by the county attorney, authorized attorney, or department, provide the county attorney, authorized attorney, or department with the following information regarding a ~~parent~~ an obligor required by a court or administrative order to provide health care coverage for a child: (a) The social security number; (b) the address; (c) whether the ~~parent~~ obligor has health care coverage and, if so, the policy name and number and the names of the persons covered; and (d) the cost to the ~~parent~~ obligor of enrolling.

(6) Upon receipt of a copy of a court or administrative order requiring a ~~parent~~ an obligor to provide health care coverage for a child, an insurer or employer shall provide the ~~child's other parent obligee~~ upon written request the information necessary to file an application pursuant to this section.

(7) A completed national medical support notice issued by the county attorney, authorized attorney, or department that complies with this section is a qualified medical child support order for the purposes of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. 1169(a), as such section existed on January 1, 2002.

(8) Upon the termination of employment of an obligor subject to this section, the employer shall promptly notify the county attorney, authorized attorney, or department of the termination of employment in the same manner as required for income withholding cases in accordance with subdivision (6) of section 43-1723.

(9) When there is no longer a current child support order in effect for an obligor subject to this section, the county attorney, authorized attorney, or department shall promptly notify the employer that the order is no longer in effect.

Sec. 9. Section 44-3,149, Reissue Revised Statutes of Nebraska, is amended to read:

44-3,149. An insurer shall, in any case in which a child has health care coverage through the insurer of a ~~noncustodial parent~~ the obligor:

(1) Provide such information to the ~~custodial parent~~ obligor as may be necessary for the child to obtain benefits through such coverage;

(2) Permit the ~~custodial parent~~ obligor or the provider, with the ~~custodial parent's~~ obligor's approval, to submit claims for covered services without the approval of the ~~noncustodial parent~~ obligor; and

(3) Make payment on claims submitted in accordance with subdivision (2) of this ~~subsection~~ section directly to such ~~custodial parent~~ obligor, the provider, or the department pursuant to section 68-1026.

Sec. 10. Section 44-2901, Reissue Revised Statutes of Nebraska, is amended to read:

44-2901. Any three or more hospitals as defined in ~~subdivisions (4) and (6) of section 71-2002,~~ section 71-419, which are located in this state and licensed by the Department of Health and Human Services Regulation and

Licensure, may incorporate a mutual insurance association to insure member hospitals, and their officers, directors, employees, and volunteer workers against liability arising from rendering, or failing to render, professional services in the treatment or care of patients by hospitals, and their agents and employees, or by member physicians.

Sec. 11. Section 71-101, Revised Statutes Supplement, 2001, is amended to read:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1,343 to 71-1,350, 71-1301 to 71-1354, and 71-2801 to 71-2823 and sections 16 and 31 of this act shall be known and may be cited as the Uniform Licensing Law.

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

(1) Board or professional board means one of the boards appointed by the State Board of Health;

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

(3) Profession or health profession means any of the several groups named in section 71-102;

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

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

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

(7) Certificate, certify, or certification, with respect to professions, means a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate means a document issued by the department which designates particular credentials for an individual;

(8) Lapse means the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so;

(9) Credentialing means the totality of the process associated with obtaining state approval to provide health care services or human services or changing aspects of a current approval. Credentialing grants permission to use a protected title that signifies that a person is qualified to provide the services of a certain profession. Credential includes a license, certificate, or registration; and

(10) Dependence means a compulsive or chronic need for or an active addiction to alcohol or any controlled substance or narcotic drug.

Sec. 12. Section 71-131, Revised Statutes Supplement, 2000, is amended to read:

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

(a) The department may, upon the recommendation of the appropriate professional board, adopt and promulgate rules and regulations to specify the passing grade on licensure or certification examinations. In the absence of such rules and regulations, an examinee shall be required to obtain an average grade of seventy-five and shall be required to obtain a grade of sixty in each subject examined;

(b) A person who desires to take a licensure or certification examination but does not wish to receive a license or certification may take such examination by meeting the examination eligibility requirements and paying the cost of the examination and an administrative fee of twenty-five dollars; and

(c) An examinee who fails a licensure or certification examination may retake the entire examination or the part failed upon payment of the licensure or certification fee each time he or she is examined. The department shall withhold from the licensure or certification fee the cost of any national examination used and the administrative fee authorized in section 71-163 when an examinee fails a licensure or certification examination and shall return to the examinee the remainder of the licensure or certification fee collected, except that:

(i) If the state-developed jurisprudence portion of the licensure or certification examination was failed, the examinee may retake that portion without charge; and

(ii) If any component of a national examination was failed, the examinee shall be charged the cost for purchasing such examination.

(2) In pharmacy, all applicants shall be required to attain a grade to be determined by the Board of Pharmacy in an examination in pharmacy and a grade of seventy-five in an examination in jurisprudence of pharmacy.

(3) In social work, the passing criterion for such examination shall be established and may be changed by the Board of Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all the requirements for certification without examination pursuant to section 71-1,319 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

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

(5) In marriage and family therapy, the passing criterion for such examination shall be established and may be changed by the Board of Mental Health Practice by rule and regulation. The board may exempt an applicant from the written examination if he or she meets all of the requirements for certification without examination pursuant to section 71-1,329 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(6) Applicants for licensure in medicine and surgery and osteopathic medicine and surgery shall pass the licensing examination. An applicant who fails to pass any part of the licensing examination within four attempts shall complete one additional year of postgraduate medical education at an accredited school or college of medicine or osteopathic medicine. All parts of the licensing examination must be successfully completed within seven years, except that if the applicant has been enrolled in a combined doctorate of medicine and doctorate of philosophy degree program in an accredited school or college of medicine, all parts of the licensing examination must be successfully completed within ten years. An applicant who fails to successfully complete the licensing examination within ~~seven years~~ the time allowed shall retake that part of the examination which ~~is more than seven years old~~ was not completed within the time allowed.

(7) In medical nutrition therapy, the passing criterion for such examination shall be established and may be changed by the Board of Medical Nutrition Therapy by rule and regulation. Such examination shall test for the essential clinical elements of the field of medical nutrition therapy. The board shall base its actions on broad categorical parameters derived from the essential elements of the field of medical nutrition therapy. It shall not endorse nor restrict its assessment to any particular nutritional school of thought in its selection of examinations, passing criterion for such examinations, evaluation of credentials, approval of continuing education hours, application of practice standards, or in any other actions. The board may exempt an applicant from the written examination if he or she meets all of the requirements for licensure without examination pursuant to section 71-1,291 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

Sec. 13. Section 71-139.01, Revised Statutes Supplement, 2000, is amended to read:

71-139.01. (1) The Board of Medicine and Surgery may approve without examination: ~~(1)~~

(a) Any person who after examination has been duly licensed to practice medicine and surgery in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the board ~~shall find~~ finds to be comparable to the requirements of the State of Nebraska for obtaining a license to practice medicine and surgery; ~~(2) any~~

(b) Any person who is a graduate of an accredited college or school of medicine and surgery located in the Canadian provinces and who has satisfactorily completed the Licentiate of the Medical Council of Canada examination and has been duly licensed to practice medicine and surgery in Canada under conditions and circumstances which the board ~~shall find~~ finds to be comparable to the requirements of the State of Nebraska for obtaining a license to practice medicine and surgery; or ~~(3) any~~

(c) Any person who is a foreign medical graduate and who has not

graduated from an accredited school or college of medicine of the United States or Canada but who has satisfactorily completed the Licentiate of the Medical Council of Canada examination and who possesses a certificate issued by the Educational Commission on Foreign Medical Graduates, or its equivalent as provided for in section 71-1,104, and has been duly licensed to practice in Canada under conditions and circumstances which the board ~~shall find~~ finds to be comparable to the requirements of the State of Nebraska for obtaining a license to practice medicine and surgery.

(2) The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training and is possessed of good character and morals as required by the laws of the State of Nebraska. The applicant shall also produce evidence satisfactory to the board that he or she has met the requirements of subdivision (1)(d) of section 71-1,104 been in the active practice of the profession of medicine and surgery in some other state, territory, the District of Columbia, or Canada for a period of one year, or has had one year or more of residency or graduate training in an accredited hospital within the three years immediately preceding the application for licensure, and shall submit a certificate of the proper licensing authority of the state, the territory, the District of Columbia, or Canada where he or she is licensed to practice such profession, that the applicant is duly licensed, that his or her license has not been suspended or revoked, and that so far as the records of such authority are concerned, the applicant is entitled to its endorsement.

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

Sec. 14. Section 71-183.02, Revised Statutes Supplement, 2001, is amended to read:

71-183.02. For purposes of sections 71-183 to 71-193.20 and section 16 of this act, dental assistant means a person, other than a dental hygienist, employed by a licensed dentist for the purpose of assisting such dentist in the performance of his or her clinical and clinical-related duties.

Sec. 15. Section 71-193.16, Revised Statutes Supplement, 2001, is amended to read:

71-193.16. For purposes of sections 71-183 to 71-193.20 and section 16 of this act, (1) general supervision means the directing of the authorized activities of a dental hygienist or dental assistant by a licensed dentist and shall not be construed to require the physical presence of the supervisor when directing such activities and (2) indirect supervision means supervision when the licensed dentist authorizes the procedure to be performed by a dental hygienist or dental assistant and the licensed dentist is physically present on the premises when such procedure is being performed by the dental hygienist pursuant to section 71-193.18 or the dental assistant.

Sec. 16. (1) The department upon recommendation of the Board of Dentistry shall issue a faculty license to any person who meets the requirements of subsection (4) or (5) of this section. A faculty licensee may practice dentistry only as a faculty member at a dental education institution in the State of Nebraska accredited by the Commission on Dental Accreditation of the American Dental Association, the Commission on Dental Accreditation of Canada, or similar organization as determined by the board and may teach dentistry, conduct research, and participate in an institutionally administered faculty practice only at such dental education institution. A faculty licensee eligible for licensure under subsection (5) of this section shall limit his or her practice to the clinical discipline in which he or she has received postgraduate education at an accredited dental education institution.

(2) Any person who desires a faculty license shall make a written application to the department. The application shall include information regarding the applicant's professional qualifications, experience, and licensure. The application shall be accompanied by a copy of the applicant's dental degree, any other degrees or certificates for postgraduate education of the applicant, the required licensure fee as provided in section 71-162, and certification from the dean of an accredited dental education institution in the State of Nebraska that the applicant has a contract to be employed as a full-time faculty member at such institution.

(3) A faculty license shall expire at the same time and be subject to the same renewal requirements as a regular dental license, except that such license shall remain valid and may only be renewed if:

(a) The faculty licensee remains employed as a full-time faculty

member of an accredited dental education institution in the State of Nebraska; and

(b) The faculty licensee demonstrates continuing clinical competency if required by the board.

(4) An individual who graduated from an accredited dental education institution shall be eligible for a faculty license if he or she:

(a) Has a license to practice dentistry in some other state in the United States;

(b) Has a contract to be employed as a full-time faculty member at an accredited dental education institution in the State of Nebraska;

(c) Passes a jurisprudence examination administered by the Board of Dentistry; and

(d) Agrees to demonstrate continuing clinical competency as a condition of renewal if required by the board.

(5) An individual who graduated from a nonaccredited dental education institution shall be eligible for a faculty license if he or she:

(a) Has completed at least two years of postgraduate education at an accredited dental education institution and received a certificate or degree from such institution;

(b) Has a contract to be employed as a full-time faculty member at an accredited dental education institution in the State of Nebraska;

(c) Passes a jurisprudence examination administered by the Board of Dentistry;

(d) Agrees to demonstrate continuing clinical competency as a condition of renewal if required by the board; and

(e) Has passed Part I and Part II of the National Board Dental Examinations or its equivalent as determined by the Board of Dentistry.

Sec. 17. Section 71-1,103, Revised Statutes Supplement, 2000, is amended to read:

71-1,103. The following classes of persons shall not be construed to be engaged in the unauthorized practice of medicine:

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

(2) Persons administering ordinary household remedies;

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

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

(5) Physicians and surgeons of the United States Armed Forces or Public Health Service or United States Department of Veterans Affairs when acting in the line of such duty in this state;

(6) Physicians and surgeons who are graduates of an accredited school or college of medicine with the degree of Doctor of Medicine and licensed in another state when incidentally called into this state for consultation with a physician and surgeon licensed in this state;

(7) Physicians and surgeons who are graduates of an accredited school or college of medicine with the degree of Doctor of Medicine and who reside in a state bordering this state and who are duly licensed under the laws thereof to practice medicine and surgery but who do not open an office or maintain or appoint a place to meet patients or to receive calls within this state unless they are performing services described in subdivision (7) of section 71-1,102;

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

(9) Dentists practicing their profession when licensed and practicing in accordance with sections 71-183 to 71-191 and section 16 of this act;

(10) Optometrists practicing their profession when licensed and practicing under and in accordance with sections 71-1,133 to 71-1,136;

(11) Osteopathic physicians practicing their profession if licensed and practicing under and in accordance with sections 71-1,137 and 71-1,141;

(12) Chiropractors practicing their profession if licensed and practicing under sections 71-177 to 71-182;

(13) Podiatrists practicing their profession when licensed and practicing under and in accordance with sections 71-173 to 71-176;

(14) Psychologists practicing their profession when licensed and practicing under and in accordance with sections 71-1,206.01 to 71-1,206.35;

(15) Advanced practice registered nurses and certified registered nurse anesthetists practicing their profession when licensed and practicing under and in accordance with the Advanced Practice Registered Nurse Act;

(16) Any person licensed or certified under the laws of this state to practice a limited field of the healing art, not specifically named in this section, when confining themselves strictly to the field for which they are licensed or certified, not assuming the title of physician, surgeon, or physician and surgeon, and not professing or holding themselves out as qualified to prescribe drugs in any form or to perform operative surgery;

(17) Physicians and surgeons who are duly licensed to practice medicine and surgery in another state who have been recommended by the secretary of the board of examiners in the state of licensure and who have been granted temporary practice rights by the Board of Medicine and Surgery, with the approval of the department, for a period not to exceed three months in any twelve-month period;

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

(19) Any other trained person employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act or clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act to withdraw human blood for scientific or medical purposes.

Every act or practice falling within the practice of medicine and surgery as defined not specially excepted in this section shall constitute the practice of medicine and surgery and may be performed in this state only by those licensed by law to practice medicine in Nebraska.

Sec. 18. Section 71-1,104, Revised Statutes Supplement, 2000, is amended to read:

71-1,104. (1) Each applicant for a license to practice medicine and surgery shall:

(a) ~~(i) present~~ Present proof that he or she is a graduate of an accredited school or college of medicine, (ii) if a foreign medical graduate, provide a copy of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates that is currently effective and relates to such applicant or provide such credentials as are necessary to certify that such foreign medical graduate has successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Immigration and Naturalization Service, or (iii) if a graduate of a foreign medical school who has successfully completed a program of American medical training designated as the Fifth Pathway and who additionally has successfully passed the Educational Commission on Foreign Medical Graduates examination but has not yet received the permanent certificate attesting to the same, provide such credentials as certify the same to the Department of Health and Human Services Regulation and Licensure;

(b) Present ~~(b) present~~ proof that he or she has served at least one year of graduate medical education approved by the Board of Medicine and Surgery or, if a foreign medical graduate, present proof that he or she has served at least three years of graduate medical education approved by the board;

(c) Pass ~~(c) pass~~ a licensing examination designated by the board and the department covering appropriate medical subjects; and

(d) Present proof satisfactory to the board that he or she, within the three years immediately preceding the application for licensure, (i) has been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year, (ii) has had at least one year of graduate medical education as described in subdivision (1)(b) of this section, (iii) has completed continuing education in medicine and surgery approved by the board, (iv) has completed a refresher course in medicine and surgery approved by the board, or (v) has completed the special purposes examination approved by the board.

(2) The department, upon the recommendation of the board, may waive any requirement for more than one year of approved graduate medical education, as set forth in subdivision (1)(b) of this section, if the applicant has served at least one year of graduate medical education approved by such board and if the following conditions are met:

(a) The applicant meets all other qualifications for a license to practice medicine and surgery;

(b) The applicant submits satisfactory proof that the issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of this state; and

(c) The applicant submits proof that he or she will enter into the practice of medicine in a health profession shortage area designated as such by the Nebraska Rural Health Advisory Commission immediately upon obtaining a license to practice medicine and surgery based upon a waiver of the requirement for more than one year of graduate medical education.

(3) A license issued on the basis of such a waiver shall be subject to the limitation that the licensee continue in practice in the health profession shortage area and such other limitations, if any, deemed appropriate under the circumstances by the Director of Regulation and Licensure, upon recommendation of the board, which may include, but shall not be limited to, supervision by a medical practitioner, training, education, and scope of practice. After two years of practice under a limited license issued on the basis of a waiver of the requirement of more than one year of graduate medical education, a licensee may apply to the department for removal of the limitations. The director, upon the recommendation of the board, may grant or deny such application or may continue the license with limitations. The fee for a license to practice medicine and surgery based on a waiver of the requirement of more than one year of graduate medical education and the renewal of such license shall be the same as the fees prescribed in section 71-162.

(4) In addition to any other grounds for disciplinary action against the license contained in the Uniform Licensing Law, the department may take disciplinary action against a license granted on the basis of a waiver of the requirement of more than one year of graduate medical education for violation of the limitations on the license. The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations for the purpose of implementing and administering this section.

Sec. 19. Section 71-1,132.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,132.04. In the interest of health and morals and the safeguarding of life, any person practicing or offering to practice nursing in this state for compensation or gratuitously, except as provided in section 71-1,132.06, shall submit satisfactory evidence as provided in the Nurse Practice Act that he or she is qualified to so practice and is licensed as provided by the act. Except as provided in section 71-1,132.06, the practice or attempted practice of ~~professional or practical~~ nursing, the holding out or attempted holding out of oneself as a registered nurse or a licensed practical nurse, or the use of any title, abbreviation, card, or device to indicate that such a person is practicing ~~professional or practical~~ nursing is unlawful unless such person has been duly licensed and registered according to the provisions of the act. The practice of nursing by any such unlicensed person or by a nurse whose license has been suspended, revoked, or expired or is on a lapsed or inactive status is declared to be a danger to the public health and welfare.

In addition to any other civil, criminal, or disciplinary remedy, the Attorney General, the board, the county attorney of any county in which a person is practicing or purporting to practice ~~professional nursing or practical~~ nursing without a valid license, or any citizen may, in accordance with the laws of this state governing injunction, maintain an action to enjoin that person from practicing ~~professional nursing or practical~~ nursing until such person obtains a valid license.

An injunction without bond may be obtained by the board for enforcement of the act.

Sec. 20. Section 71-1,132.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,132.06. The Nurse Practice Act confers no authority to practice medicine or surgery. The act does not prohibit:

(1) Home care provided by parents, foster parents, family, or friends so long as any such person does not represent or hold himself or herself out to be a nurse or use any designation in connection with his or her name which tends to imply that he or she is licensed to practice under the act;

(2) Christian Science nursing consistent with the theology of Christian Science provided by a Christian Science nurse who does not hold himself or herself out as a registered nurse or a licensed practical nurse;

(3) Auxiliary patient care services provided by persons carrying out duties under the direction of a licensed practitioner;

(4) Auxiliary patient care services provided by persons carrying out

interventions for the support of nursing service as delegated by a registered nurse or as assigned and directed by a licensed practical nurse licensed under the act;

(5) The gratuitous rendering of assistance by anyone in the case of an emergency;

(6) Nursing by any legally licensed nurse of any other state whose engagement requires him or her to (a) accompany and care for a patient temporarily residing in this state during the period of one such engagement not to exceed six months in length, (b) transport patients into, out of, or through this state provided each transport does not exceed twenty-four hours, (c) provide patient care during periods of transition following transport, (d) provide educational programs or consultative services within this state for a period not to exceed fourteen consecutive days if neither the education nor the consultation includes the provision or the direction of patient care, and (e) provide nursing care in the case of a disaster. These exceptions do not permit a person to represent or hold himself or herself out as a nurse licensed to practice in this state;

(7) Nursing services rendered by a student enrolled in an approved program of nursing when the services are a part of the student's course of study; or

(8) The practice of ~~professional or practical~~ nursing by any legally licensed nurse of another state who is employed by the United States Government or any bureau, division, or agency of the United States Government while in the discharge of his or her official duties or, if permitted by federal law, as a citizen of a foreign country temporarily residing in Nebraska for a period not to exceed one year for the purpose of postgraduate study, certified to be such by an appropriate agency satisfactory to the board.

Sec. 21. Section 71-1,132.07, Revised Statutes Supplement, 2000, is amended to read:

71-1,132.07. (1) The Board of Nursing is established. The board shall consist of eight registered nurse members, two licensed practical nurse members, and two consumer members, all of whom shall be appointed by the State Board of Health. The registered nurses on the Board of Nursing shall be from the following areas: (a) One practical nurse educator; (b) one associate degree or diploma nurse educator; (c) one baccalaureate nurse educator; (d) two nursing service administrators; (e) two staff nurses; and (f) one clinical nurse specialist, advanced practice registered nurse, certified nurse practitioner-anesthetist, or certified nurse midwife. The nursing service administrators, the staff nurses, and the licensed practical nurses shall be equally representative of acute care, long-term care, and community-based care. All congressional districts shall be equally represented on the board, and each member shall have been a bona fide resident of the congressional district from which he or she is appointed for a period of at least one year prior to the time of the appointment of such member.

(2) The terms of office of all board members shall be staggered terms of four years each as the State Board of Health determines.

(3) At the expiration of the term of any member, the State Board of Health may consult with appropriate ~~professional~~ nursing organizations regarding candidates for appointment. Appointments shall be made on or before December 1 of each year. In order to be considered for reappointment, a candidate must currently meet all criteria for initial appointment. Vacancies occurring on the Board of Nursing shall be filled for the unexpired terms by appointments made by the State Board of Health. No member shall serve more than two consecutive terms on the Board of Nursing. Any board member initially appointed for less than a full term shall be eligible to serve for two additional consecutive full terms.

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

(5) All members of the board are immune from individual civil liability while acting within the scope of their duties as board members.

(6) If the entire board, an individual member, or a staff member is sued, the Attorney General shall appoint an attorney to represent the involved parties.

(7) The department shall adopt and promulgate rules and regulations

which establish definitions of conflicts of interest for members of the board and which establish procedures in the case such a conflict arises.

Sec. 22. Section 71-1,132.11, Revised Statutes Supplement, 2000, is amended to read:

71-1,132.11. The board may adopt, promulgate, and revise, with the approval of the department, such rules and regulations consistent with the Nurse Practice Act as may be necessary to carry the act into effect. All such rules and regulations shall be published and distributed. The board shall:

(1) Adopt reasonable and uniform standards for nursing practice and nursing education;

(2) If requested, issue or decline to issue advisory opinions defining acts which in the opinion of the board are or are not permitted in the practice of nursing as defined in section 71-1,132.05. Such opinions shall be considered informational only and are nonbinding. Practice-related information provided by the board to registered or licensed practical nurses licensed under the act shall be made available by the board on request to nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact;

(3) Establish rules and regulations for approving and classifying programs preparing ~~practical and professional~~ nurses, taking into consideration administrative and organizational patterns, the curriculum, students, student services, faculty, and instructional resources and facilities, and provide surveys for each educational program as determined by the board;

(4) Approve educational programs which meet the requirements of the act;

(5) Examine, license, and renew the licenses of duly qualified applicants;

(6) Keep a record of all its proceedings and compile an annual report for distribution;

(7) Develop standards for continued competency of licensees continuing in or returning to practice;

(8) Adopt rules and regulations establishing standards for delegation of nursing activities, including training or experience requirements, competency determination, and nursing supervision;

(9) Make recommendations in accordance with section 71-168.01 regarding licensure and disciplinary dispositions for individuals who have violated the act and upon the grounds provided in the Uniform Licensing Law;

(10) Collect data regarding nursing;

(11) Provide consultation and conduct conferences, forums, studies, and research on nursing practice and education;

(12) Join organizations that develop and regulate the national nursing licensure examinations and exclusively promote the improvement of the legal standards of the practice of nursing for the protection of the public health, safety, and welfare;

(13) Appoint special purpose groups or ad hoc groups to advise the board; and

(14) Administer the provisions of the Advanced Practice Registered Nurse Act as it applies to certified registered nurse anesthetists, the Nebraska Certified Nurse Midwifery Practice Act, and the Nurse Licensure Compact. In reporting information to the coordinated licensure information system under Article VII of the compact, the department may disclose personal identifying information about a nurse, including his or her social security number.

Sec. 23. Section 71-1,132.13, Revised Statutes Supplement, 2000, is amended to read:

71-1,132.13. (1) An applicant for a license to practice as a registered nurse shall file with the department a written application for a license and submit satisfactory proof that the applicant (a) is of good moral character, (b) has completed four years of high school study or its equivalent as determined by the board, and (c) has completed the basic professional curriculum in and holds a diploma from an accredited program of ~~professional registered~~ nursing approved by the board. Graduates of foreign nursing programs shall pass the Canadian Nurses Association ~~Testing Service~~ examination or hold a certificate from the Commission on Graduates of Foreign Nursing Schools. Such application shall be made upon a form prescribed and approved by the department, verified by the applicant's oath, and accompanied by an application fee established by rules and regulations of the department. The application shall include the applicant's social security number.

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

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

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

Sec. 24. Section 71-1,132.16, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,132.16. A temporary permit to practice ~~professional or practical~~ nursing may be issued to:

(1) An individual seeking to obtain licensure or reinstatement of his or her license when he or she has not practiced nursing in the last five years. Such permit is valid only for the duration of the review course of study and only for nursing practice required for the review course of study;

(2) Graduates of approved ~~professional and practical~~ programs of nursing who have passed the licensure examination, pending the completion of application for Nebraska licensure. Such permit is valid for a period not to exceed sixty days; or

(3) Nurses currently licensed in another state as either a registered nurse or a licensed practical nurse who have graduated from an educational program approved by the board, pending completion of application for Nebraska licensure. Such permit shall be valid for a period not to exceed sixty days.

Temporary permits issued pursuant to this section may be extended by the department with the concurrence of the board.

Sec. 25. Section 71-1,132.18, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,132.18. Any person who holds a license to practice as a registered nurse in this state has the right to use the title Registered Nurse and the abbreviation R.N. No other person shall assume or use such title or abbreviation or any words, letters, signs, or devices to indicate that the person using the same is authorized to practice ~~professional registered~~ nursing. No person shall use the title Clinical Nurse Specialist unless he or she is a clinical nurse specialist as defined in section 71-1,132.05.

Sec. 26. Section 71-1,132.20, Revised Statutes Supplement, 2000, is amended to read:

71-1,132.20. (1) The license of every registered nurse or licensed practical nurse shall be renewed biennially. The biennial expiration date is October 31 of every odd-numbered year for licensed practical nurses and October 31 of every even-numbered year for registered nurses. The biennial license renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the board, shall establish by rule and regulation.

(2) On or before August 1 of each renewal year, the department shall mail an application for renewal of license to every person to whom such license was issued or renewed during the current renewal period. The applicant shall complete and return the application to the department with a renewal fee established by the department pursuant to section 71-1,132.49 on or before October 31 following the mailing of such notice. Upon receipt of the application and fee, the department shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the renewal period beginning November 1 following the mailing of such notice. The certificate of renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the certificate of renewal.

(3) A licensed practical nurse or registered nurse who wishes to have his or her license lapse upon expiration shall give the department written notice to that effect. The department shall notify the licensee in writing of the acceptance or denial of the request to allow the license to lapse. When the lapsed status becomes effective, the right to practice nursing and to represent himself or herself as a licensed practical nurse or registered nurse shall terminate. To restore the license, the individual shall be required to (a) (i) present evidence of engaging in five hundred hours of the practice of nursing within the five years preceding restoration of the license if the license has been lapsed for two years or more or (ii) meet the renewal requirements in effect at the time he or she wishes to restore the license if the license has been lapsed for less than two years and (b) pay the renewal fee and an additional fee of fifty dollars.

(4) A licensed practical nurse or registered nurse who wishes to have his or her license placed on inactive status upon expiration shall give the department written notice to that effect and pay the fee provided in section 71-1,132.49. The department shall notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on

inactive status. When the license is placed on inactive status, the licensee shall not engage in the practice of nursing in Nebraska. A license may remain on inactive status for an indefinite period of time. In order to move a license from inactive to active status, an individual shall (a) (i) present evidence of engaging in five hundred hours of the practice of nursing within the five years preceding restoration of the license if the license has been on inactive status for two years or more or (ii) meet the renewal requirements in effect at the time he or she wishes to regain active status if the license has been on inactive status for less than two years and (b) pay the renewal fee and reinstatement fee due at such time as specified in section 71-1,132.49.

(5) Any licensed practical nurse or registered nurse who fails to (a) notify the department that he or she wishes his or her license to lapse or to be placed on inactive status or (b) meet the renewal requirements, on or before the date of expiration of his or her license, shall be given a second notice in the same manner as the first notice advising him or her (i) of the failure to pay, (ii) that the license has expired, (iii) that the department will suspend action for thirty days following the date of expiration, (iv) that upon the receipt of the renewal fee, together with an additional fee of fifty dollars, within that time, the license will be renewed, and (v) that upon the failure to receive the amount then due and fifty dollars in addition to the regular renewal fee, the license will be placed on lapsed status.

(6) A fee to be determined by rules and regulations pursuant to section 71-1,132.49 shall be charged to any registered nurse or licensed practical nurse for the issuance of a certification of credentials to another state and to any educational institution or agency.

(7) In order to insure that all nurses have sufficient scientific and practical knowledge to continue to practice nursing, a license to practice nursing shall not be renewed after January 1, 1997, unless the nurse has within the preceding five years engaged in the practice of nursing for a minimum of five hundred hours and completed twenty contact hours within the previous two years of either:

(a) Inservice education provided by the employer; or

(b) Continuing education courses which meet requirements as specified by the board in rules and regulations.

The department, with the concurrence of the board, may waive continuing education or inservice requirements for any two-year licensing period when a licensee submits documentation that circumstances justify such waiver. Such circumstances shall be defined in rules and regulations.

If more than five years have elapsed since the individual has practiced nursing as defined in section 71-1,132.05, the individual must complete a seventy-five-hour approved review course of study before his or her license can be renewed. Such course may be individually designed and must include a practice or clinical component.

Sec. 27. Section 71-1,132.24, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,132.24. An institution desiring to conduct a program of ~~professional or practical~~ nursing shall apply to the board and submit evidence to the board that it is prepared to carry out the prescribed basic nursing curriculum and to meet the other standards established by the Nurse Practice Act and by the board.

Sec. 28. Section 71-1,132.25, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,132.25. An application to conduct a program of ~~professional or practical~~ nursing education shall be made in writing upon a form to be approved and furnished by the board.

Sec. 29. Section 71-1,132.35, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,132.35. Except as otherwise provided in the Nurse Practice Act, no person, association, partnership, limited liability company, corporation, or institution shall:

(1) Sell or fraudulently obtain or fraudulently furnish any nursing diploma, license, record, or registration or aid or abet therein;

(2) Practice ~~professional or practical~~ nursing under cover of any diploma, license, record, or registration illegally or fraudulently obtained or signed unlawfully or under fraudulent representation;

(3) Practice ~~professional or practical~~ nursing unless duly licensed to do so under the Nurse Practice Act;

(4) Use in connection with his or her name any designation tending to imply that he or she is a nurse, a registered nurse, or a licensed practical nurse unless duly licensed so to practice under the act;

(5) Practice ~~professional or practical~~ nursing during the time his or her license issued under the act is suspended, revoked, lapsed, inactive,

or expired;

(6) Conduct a program of ~~professional or practical~~ nursing unless the program has been approved by the board; or

(7) Otherwise violate any of the provisions of the act.

Sec. 30. Section 71-1,134, Revised Statutes Supplement, 2000, is amended to read:

71-1,134. ~~Sections 71-1,133 to 71-1,136.09~~ The practice of optometry under sections 71-1,133 to 71-1,136.09 and section 31 of this act shall not be construed to:

(1) Include ~~(1)~~ include merchants or dealers who sell glasses as merchandise in an established place of business or who sell contact lenses from a prescription for contact lenses written by an optometrist or a person licensed to practice medicine and surgery and who do not profess to be optometrists or practice optometry as defined in section 71-1,133;

(2) Restrict, ~~or (2) restrict,~~ expand, or otherwise alter the scope of practice governed by other statutes; or

(3) Include the performance by an optometric assistant, under the supervision of a licensed optometrist, of duties prescribed in accordance with rules and regulations adopted and promulgated by the department upon recommendation of the Board of Optometry.

Sec. 31. Any licensed optometrist may employ optometric assistants. Such assistants, under the supervision of a licensed optometrist, may perform such duties as are prescribed in accordance with rules and regulations adopted and promulgated by the department upon recommendation of the Board of Optometry.

Sec. 32. Section 71-1,136.03, Revised Statutes Supplement, 2000, is amended to read:

71-1,136.03. The department, upon recommendation of the Board of Optometry, with the approval of the department, may adopt and promulgate such rules and regulations as may be reasonable and proper for the purpose of administering such provisions of sections 71-1,133 to 71-1,136.09 and section 31 of this act as properly fall within the jurisdiction of the board.

Sec. 33. Section 71-1,139.01, Revised Statutes Supplement, 2000, is amended to read:

71-1,139.01. ~~Any person (1) who~~ (1) If a person (a) has graduated from an accredited school or college of osteopathic medicine since January 1, 1963, (2) who (b) meets all statutory requirements for licensure as an osteopathic physician, (3) who (c) has served one year of internship or its equivalent at an institution approved for such training by the Board of Medicine and Surgery, and (4) who, (d) after his or her internship, has taken and passed the examination provided in section 71-1,104, and (e) presents proof satisfactory to the board that he or she, within the three years immediately preceding the application for licensure, (i) has been in the active practice of the profession of osteopathic medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year, (ii) has had one year of graduate medical education as described in subdivision (1)(c) of this section, (iii) has completed continuing education in medicine and surgery or osteopathic medicine and surgery approved by the board, (iv) has completed a refresher course in medicine and surgery or osteopathic medicine and surgery approved by the board, or (v) has completed the special purposes examination approved by the board, such person, upon making application therefor, shall receive a license as a Doctor of Osteopathic Medicine and Surgery which shall qualify such person to practice osteopathic medicine and surgery.

(2) The department shall accept, in lieu of the examination provided in subdivision ~~(4)~~ (1)(d) of this section, a certificate of examination issued by the National Board of Osteopathic Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued in osteopathic medicine and surgery without examination, based upon a license by examination held in another state or territory or the District of Columbia.

(3) With respect to persons who have graduated from an accredited school or college of osteopathic medicine prior to January 1, 1963, the department, upon the approval of the Board of Medicine and Surgery, may issue a license to practice osteopathic medicine and surgery to any such graduate who meets all the requirements for issuance of such license except graduation from an accredited school or college of osteopathic medicine after January 1, 1963, and whose application has been approved by the board.

Sec. 34. Section 71-1,147.53, Revised Statutes Supplement, 2001, is amended to read:

71-1,147.53. 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 on site by a practitioner;

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

(4) Prescriptions are accompanied by patient instructions and written information approved by the Director of Regulation and Licensure;

(5) The dispensing of authorized refills of oral 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 prepackaged by a pharmacist, the lot number and calculated expiration date. Calculated expiration date means an expiration date on the prepackaged product which is not greater than twenty-five percent of the time between the date of repackaging and the expiration date of the bulk container nor greater than six months from the date of repackaging the expiration date on the manufacturer's container or one year from the date the drug is repackaged, whichever is earlier;

(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 71-1,147.48; 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 71-1,158, Revised Statutes Supplement, 2000, is amended to read:

71-1,158. (1) Any person desiring a license to practice veterinary medicine and surgery in this state shall make written application to the board. The application shall include:

~~(1)~~ (a) Proof that the applicant is twenty-one years of age or more;

~~(2)~~ (b) Information indicating that the applicant is a person of good moral character;

~~(3)~~ (c) Proof that the applicant is a graduate of an accredited school of veterinary medicine or holds a certificate issued by ~~the American Veterinary Medical Association Education Commission for Foreign Veterinary Graduates~~ an entity that determines educational equivalence approved by the department upon recommendation of the board indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of

an accredited college of veterinary medicine; and

~~(4)~~ (d) Such other information and proof as the board may require by rule and regulation.

(2) The application shall be accompanied by a fee of not less than seventy-five dollars nor more than two hundred dollars, the amount of such fee to be determined by a rule or regulation adopted and promulgated by the department with the approval of the board.

(3) If the board determines that the applicant possesses the proper qualifications, the board shall admit the applicant to the next examination, or if the applicant is eligible for a license without examination under section 71-1,160, the board may forthwith recommend that he or she be issued a license. If an applicant is found not qualified to take the examination or for a license without examination, the board shall immediately notify the applicant in writing of such finding and the grounds therefor.

Sec. 36. Section 71-1,160, Revised Statutes Supplement, 2000, is amended to read:

71-1,160. The board may direct the issuing of a license without a written examination to a qualified applicant who furnishes satisfactory proof required under subdivision ~~(3)~~ (1)(c) of section 71-1,158 and who:

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

(2) Has prior to filing his or her application successfully completed and passed an examination approved by the board.

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

Sec. 37. Section 71-1,161, Revised Statutes Supplement, 2000, is amended to read:

71-1,161. The board may recommend to the department the issuance of a temporary license to practice veterinary medicine and surgery upon receipt of a fee of fifty dollars and the completed application to (1) any person who has a current license to practice veterinary medicine and surgery in another state, territory, or district of the United States or (2) any person who furnishes satisfactory proof required under subdivision ~~(3)~~ (1)(c) of section 71-1,158 and has passed an examination conducted by the National Board of Veterinary Examiners. Such temporary license shall be valid until the date on which the results of the next licensure examination are available to the department and it may not be renewed. The holder of a temporary license shall be entitled to practice veterinary medicine and surgery.

Sec. 38. Section 71-1,231, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,231. (1) An applicant for a license to practice respiratory care shall submit to the board written evidence, verified by oath, that the applicant+

~~(a) Has completed an approved four-year high school course of study or the equivalent of such study; and~~

~~(b) Has has completed a respiratory care educational program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation in collaboration with the Joint Review Committee for Respiratory Therapy Education or an accrediting agency approved by the department.~~

(2) In order to be licensed, initial applicants shall pass an examination approved by the department on the recommendation of the board.

Sec. 39. Section 71-404, Revised Statutes Supplement, 2000, is amended to read:

71-404. (1) Adult day service means a person or any legal entity which provides care and an array of social, medical, or other support services for a period of less than twenty-four consecutive hours in a community-based group program to four or more persons who require or request such services due to age or functional impairment.

(2) Adult day service does not include services provided under the Developmental Disabilities Services Act.

Sec. 40. Section 71-428, Revised Statutes Supplement, 2000, is amended to read:

71-428. (1) Respite care service means a person or any legal entity, ~~not otherwise licensed under the Health Care Facility Licensure Act, which that~~ provides short-term temporary care ~~or related services~~ on an intermittent basis to persons with special needs when the person's ~~regular~~ primary caregiver is unavailable to provide such care. ~~or services and such care or services are not provided at a health care facility licensed under the~~

act.

(2) Respite care service does not include:

(a) A person or any legal entity which is licensed under the Health Care Facility Licensure Act, licensed to provide child care to thirteen or more children under sections 71-1908 to 71-1917, or licensed as a group home or child-caring agency under sections 71-1901 to 71-1906.03;

(b) An agency that recruits, screens, or trains a person to provide respite care;

(c) An agency that matches a respite care service or other providers of respite care with a person with special needs, or refers a respite care service or other providers of respite care to a person with special needs, unless the agency receives compensation for such matching or referral from the service or provider or from or on behalf of the person with special needs;

(d) A person who provides respite care to fewer than eight unrelated persons in any seven-day period in his or her home or in the home of the recipient of the respite care; or

(e) A nonprofit agency that provides group respite care for no more than eight hours in any seven-day period.

Sec. 41. Section 71-432, Revised Statutes Supplement, 2000, is amended to read:

71-432. ~~Beginning on January 1, 2001, a~~ A health care facility or health care service shall not be established, operated, or maintained in this state without first obtaining a license issued by the department under the Health Care Facility Licensure Act. No facility or service shall hold itself out as a health care facility or health care service or as providing health care services unless licensed under the act. ~~except that licensure under the act shall not be required for an adult day service, a pharmacy, or a respite care service until January 1, 2002.~~ The department shall issue a license to health care facilities and health care services that satisfy the requirements for licensure under the act.

Sec. 42. Section 71-434, Revised Statutes Supplement, 2000, is amended to read:

71-434. (1) Licensure activities under the Health Care Facility Licensure Act shall be funded by the General Fund and by license fees. An applicant for an initial or renewal license under section 71-433 shall pay a license fee as provided in this section.

(2) License fees shall include a base fee of fifty dollars and an additional fee based on:

(a) Variable costs to the department of inspections, architectural plan reviews, and receiving and investigating complaints, including staff salaries, travel, and other similar direct and indirect costs;

(b) The number of beds available to persons residing at the health care facility;

(c) The program capacity of the health care facility or health care service; or

(d) Other relevant factors as determined by the department.

Such additional fee shall be no more than one thousand dollars for an assisted-living facility, a hospital, an intermediate care facility, an intermediate care facility for the mentally retarded, a nursing facility, or a skilled nursing facility and no more than five hundred dollars for all other health care facilities and health care services.

(3) If the licensure application is denied, the license fee shall be returned to the applicant, except that the department may retain up to twenty-five dollars as an administrative fee and may retain the entire license fee if an inspection has been completed prior to such denial.

(4) The department shall also collect the fee provided in subsection (1) of this section for reinstatement of a license that has lapsed or has been ~~placed on probation,~~ suspended, or revoked. The department shall collect a fee of ten dollars for a duplicate original license.

(5) The department shall adopt and promulgate rules and regulations for the establishment of license fees under this section.

(6) The department shall remit all license fees collected under this section to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. License fees collected under this section shall only be used for activities related to the licensure of health care facilities and health care services.

Sec. 43. Section 71-436, Revised Statutes Supplement, 2000, is amended to read:

71-436. (1) An applicant for licensure under the Health Care Facility Licensure Act shall obtain a separate license for each type of health care facility or health care service that the applicant seeks to operate. A single license may be issued for (a) a facility or service operating in

separate buildings or structures on the same premises under one management, (b) an inpatient facility that provides services on an outpatient basis at multiple locations, or (c) a health clinic operating satellite clinics on an intermittent basis within a portion of the total geographic area served by such health clinic and sharing administration with such clinics.

(2) The department may issue one license document that indicates the various types of health care facilities or health care services for which the entity is licensed. The department may inspect any of the locations that are covered by the license. If an entity is licensed in multiple types of licensure for one location, the department shall conduct all required inspections simultaneously for all types of licensure ~~unless the entity requests otherwise when requested by the entity.~~

Sec. 44. Section 71-438, Revised Statutes Supplement, 2000, is amended to read:

71-438. (1) The department may accept accreditation or certification by a recognized independent accreditation body or public agency, which has standards that are at least as stringent as those of the State of Nebraska, as evidence that the health care facility or health care service complies with the rules, regulations, and standards adopted and promulgated under the Health Care Facility Licensure Act.

(2) A facility or service licensed pursuant to an accreditation or certification accepted by the department shall notify the department if such accreditation or certification has been sanctioned, modified, terminated, or withdrawn. After giving such notice, the facility or service may continue to operate unless the department determines that the facility or service no longer meets the qualifications for licensure under the act.

Sec. 45. Section 71-456, Revised Statutes Supplement, 2000, is amended to read:

71-456. (1) A license issued under the Health Care Facility Licensure Act that has lapsed for nonpayment of fees is eligible for reinstatement at any time by applying to the department and paying the applicable fee as provided in section 71-434.

(2) A license that has been disciplined by being placed on ~~probation or~~ suspension is eligible for reinstatement at the end of the period of ~~such probation or~~ suspension upon successful completion of an inspection and payment of the applicable renewal fee provided in section 71-434.

(3) A license that has been disciplined by being placed on probation is eligible for reinstatement at the end of the period of probation upon successful completion of an inspection if the department determines an inspection is warranted.

(4) A license that has been disciplined by being placed on probation or suspension may be reinstated prior to the completion of the term of such probation or suspension as provided in this subsection. Upon petition from a licensee and after consideration of materials submitted with such petition, the director may order an inspection or other investigation of the licensee. On the basis of material submitted by the licensee and the results of any inspection or investigation by the department, the director shall determine whether to grant full reinstatement of the license, to modify the probation or suspension, or to deny the petition for reinstatement. The director's decision shall become final thirty days after mailing the decision to the licensee unless the licensee requests a hearing within such thirty-day period. Any requested hearing shall be held according to rules and regulations of the department for administrative hearings in contested cases. Any party to the decision shall have a right to judicial review under the Administrative Procedure Act.

~~(4)~~ (5) A license that has been disciplined by being revoked is not eligible for relicensure until two years after the date of such revocation. A reapplication for an initial license may be made at the end of such two-year period.

~~(5)~~ (6) The department may adopt and promulgate rules and regulations to carry out this section.

Sec. 46. Section 71-1723.02, Revised Statutes Supplement, 2000, is amended to read:

71-1723.02. (1) An advanced practice registered nurse (a) who has a master's degree or doctorate degree in nursing and has completed an approved advanced practice registered nurse program, (b) who can demonstrate separate course work in pharmacotherapeutics, advanced health assessment, and ~~pathopsychology~~ pathophysiology or psychopathology, and (c) who has completed a minimum of two thousand hours of practice under the supervision of a physician shall (i) submit to the department an integrated practice agreement with a collaborating physician and (ii) furnish proof of professional liability insurance required under section 71-1723.04 prior to commencing

practice.

(2) An advanced practice registered nurse who intends to practice the clinical specialty of neonatal or women's health and who does not meet the education and training requirements of subsection (1) of this section or an advanced practice registered nurse who needs to obtain the two thousand hours of supervised practice required under subdivision (1)(c) of this section shall (a) submit to the department one or more integrated practice agreements with a collaborating physician, (b) furnish proof of jointly approved protocols with a collaborating physician which shall guide the advanced practice registered nurse's practice, and (c) furnish proof of professional liability insurance required under section 71-1723.04.

(3) If, after a diligent effort to obtain an integrated practice agreement, an advanced practice registered nurse is unable to obtain an integrated practice agreement with one physician, the Board of Advanced Practice Registered Nurses may waive the requirement of an integrated practice agreement upon a showing that the applicant (a) meets the requirements of subsection (1) of this section, (b) has made a diligent effort to obtain an integrated practice agreement, and (c) will practice in a geographic area where there is a shortage of health care services.

Sec. 47. Section 71-1729, Reissue Revised Statutes of Nebraska, is amended to read:

71-1729. For purposes of sections 71-1729 to 71-1737, unless the context otherwise requires:

(1) Certified registered nurse anesthetist or nurse practitioner-anesthetist ~~shall mean~~ means a currently licensed registered ~~professional~~ nurse holding a current certificate as a nurse practitioner in the specific expanded role of the practice of anesthesia;

(2) Licensed practitioner ~~shall mean~~ means any physician or osteopathic physician licensed to prescribe, diagnose, and treat as prescribed in sections 71-1,102 and 71-1,137; and

(3) Practice of anesthesia ~~shall mean~~ means (a) the performance of or the assistance in any act involving the determination, preparation, administration, or monitoring of any drug used to render an individual insensible to pain for procedures requiring the presence of persons educated in the administration of anesthetics or (b) the performance of any act commonly the responsibility of educated anesthesia personnel. Practice of anesthesia ~~shall include~~ includes the use of those techniques which ~~shall be~~ are deemed necessary for adequacy in performance of anesthesia administration. Nothing in sections 71-1729 to 71-1737 shall be intended to prohibit routine administration of a drug by a duly licensed registered ~~professional~~ nurse, licensed practical nurse, or other duly authorized person for the alleviation of pain or intended to prohibit the practice of anesthesia by students enrolled in an accredited school of nurse anesthesia when the services performed are a part of the course of study and are under the supervision of a licensed practitioner or nurse practitioner-anesthetist.

Sec. 48. Section 71-1757, Reissue Revised Statutes of Nebraska, is amended to read:

71-1757. (1) The certificate of each person certified under the Nebraska Certified Nurse Midwifery Practice Act shall be renewed at the same time and in the same manner as renewal of a license for a registered nurse, except that no additional fee shall be charged for late renewal. Renewal of such a certificate shall require that (a) the applicant have a license as a registered ~~professional~~ nurse issued by the state and (b) documentation of continued clinical competencies, if deemed necessary by the boards, either by reference, peer review, or examination.

(2) The department shall collect fees as follows:

(a) Application for certification, not in excess of fifty dollars; and  
(b) Certificate renewal, not in excess of twenty dollars annually or forty dollars biennially.

(3) The department may also establish and collect fees for:

(a) Reexamination;  
(b) Applications for temporary permits; and  
(c) Applications for reinstatement after revocation, suspension, or expiration of certification.

Sec. 49. Section 71-1761, Reissue Revised Statutes of Nebraska, is amended to read:

71-1761. A certificate to practice as a certified nurse midwife may be denied, refused renewal, revoked, or suspended for any violation of the Nebraska Certified Nurse Midwifery Practice Act, for physical or mental disability or incapacity, for gross incompetence, or for any reason for which a license to practice as a registered ~~professional~~ nurse could be denied,

revoked, or suspended. The methods and procedures for notice of hearing, opportunity for hearing, presentation of evidence, conduct of hearing, reinstatement of a certificate, and other matters relating to licensing of certified nurse midwives shall be identical to those pertaining to the denial, revocation, or suspension of a license to practice as a registered ~~professional~~ nurse. Any decision to deny, refuse renewal of, revoke, or suspend a certificate to practice as a certified nurse midwife may be appealed, and such appeal shall be in accordance with the Administrative Procedure Act.

Sec. 50. Section 71-1787, Reissue Revised Statutes of Nebraska, is amended to read:

71-1787. The department shall set the fees to be paid under the Licensed Practical Nurse-Certified Act as follows:

(1) For an initial certificate to practice as a licensed practical nurse-certified, not less than twenty dollars and not more than two hundred dollars;

(2) For renewal of a certificate to practice as a licensed practical nurse-certified, not less than twenty dollars and not more than seventy-five dollars;

(3) For approval of a certification course to be offered by an approved school of ~~professional or practical~~ nursing, not less than one hundred fifty dollars and not more than three hundred dollars; and

(4) For approval of a certification course to be offered by a person other than an approved school of ~~professional or practical~~ nursing, not less than two hundred dollars and not more than one thousand dollars.

Sec. 51. A hospital patient who is nineteen years of age or older or an emancipated minor may designate at any time, orally or in writing, up to five individuals not legally related by marriage or blood to the patient whom the patient wishes to be given the same visitation privileges as an immediate family member of such patient. An individual so designated shall have the same visitation privileges as an immediate family member of such patient. The patient may rescind the designation or designations at any time, orally or in writing. Any designation or rescission made under this section shall be noted on the patient's medical records at such hospital. For purposes of this section, medical records means the hospital's record of a patient's health history and treatment rendered.

Sec. 52. Section 71-2412, Reissue Revised Statutes of Nebraska, is amended to read:

71-2412. (1) Each institutional pharmacy shall be directed by a pharmacist, referred to as the pharmacist in charge as defined in section 71-1,142, who is licensed to engage in the practice of pharmacy in this state.

(2) For an institution that does not have an institutional pharmacy or during such times as an institutional pharmacy may be unattended by a pharmacist, drugs may be administered to residents of the institution by authorized personnel of the institution from the contents of emergency boxes located within such facility if such drugs and boxes meet all of the following requirements:

(a) All emergency box drugs shall be provided by and all emergency boxes containing such drugs shall be sealed by a supplying pharmacist with the seal on such emergency box to be of such a nature that it can be easily identified if it has been broken;

(b) Emergency boxes shall be stored in a medication room or other secured area within the institution. Only the supplying pharmacist or authorized personnel of the institution shall obtain access to such room or secured area, by key or combination, in order to prevent unauthorized access and to ensure a proper environment for preservation of the emergency box drugs;

(c) The exterior of each emergency box shall be labeled so as to clearly indicate that it is an emergency box for use in emergencies only. The label shall contain a listing of the drugs contained in the box, including the name, strength, route of administration, quantity, and expiration date of each drug, and the name, address, and telephone number of the supplying pharmacist;

(d) The expiration date of an emergency box shall be the earliest date of expiration of any drug contained in the box;

(e) All emergency boxes shall be inspected by the supplying pharmacist or another pharmacist designated by the supplying pharmacist at least once every thirty days to determine the expiration date and quantity of the drugs in the box. Every inspection shall be documented and the record retained by the institution for a period of two years;

(f) An emergency box shall not contain any multiple dose vials and shall not contain more than ten drugs which are controlled substances; and

(g) All drugs in emergency boxes shall be in the original

manufacturer's containers or shall be repackaged by the supplying pharmacist and shall include the manufacturer's name, lot number, drug name, strength, dosage form, NDC number, route of administration, and expiration date on a typewritten label. Any drug which is repackaged shall contain on the label the calculated expiration date. For purposes of the Emergency Box Drug Act, ~~the calculated expiration date shall not be greater than twenty-five percent of the time between the date of the repackaging and the expiration date of the bulk container or six months from the date of repackaging, whichever is shorter~~ has the same meaning as in subdivision (7) (b) of section 71-1,147.53.

Sec. 53. Section 71-2421, Revised Statutes Supplement, 2001, is amended to read:

71-2421. (1) To protect the public safety, dispensed drugs or devices may be returned to the dispensing pharmacy only under the following conditions:

(a) For immediate destruction by a pharmacist, except that drugs and devices dispensed to residents of a long-term care facility shall be destroyed on the site of the long-term care facility;

(b) In response to a recall by the manufacturer, packager, or distributor;

(c) If a device is defective or malfunctioning; or

(d) Return from a long-term care facility for credit, except that:

(i) No controlled substance may be returned;

(ii) The decision to accept the return of the dispensed drug or device shall rest solely with the pharmacist;

(iii) The dispensed drug or device shall have been in the control of the long-term care facility at all times;

(iv) The dispensed drug or device shall be in the original and unopened labeled container with a tamper-evident seal intact, as dispensed by the pharmacy. Such container shall bear the expiration date or calculated expiration date and lot number; and

(v) Tablets or capsules shall have been dispensed in a unit dose with a tamper-evident container which is impermeable to moisture and approved by the Board of Pharmacy.

(2) Returned dispensed drugs or devices shall not be retained in inventory nor made available for subsequent dispensing, except as provided in subdivision (1) (d) of this section.

(3) For purposes of this section:

(a) Calculated expiration date means an expiration date on the prepackaged product which is not greater than twenty-five percent of the time between the date of repackaging and the expiration date of the bulk container nor greater than six months from the date of repackaging; and

(b) Dispense, dispense, drugs, and devices are defined in section 71-1,142.

Sec. 54. Section 71-5310, Revised Statutes Supplement, 2001, is amended to read:

71-5310. (1) The director, with the approval of the council, may authorize variances or exemptions from the drinking water standards issued pursuant to section 71-5302 under conditions and in such manner as they deem necessary and desirable. Such variances or exemptions shall be permitted under conditions and in a manner which are not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the federal Safe Drinking Water Act, ~~Public Law 93-523~~, as the act existed on ~~May 22, 2001~~ the operative date of this section.

(2) Prior to granting a variance or an exemption, the director shall provide notice, in a newspaper of general circulation serving the area served by the public water system, of the proposed exemption or variance and that interested persons may request a public hearing on the proposed exemption or variance. The director may require the system to provide other appropriate notice as he or she deems necessary to provide adequate notice to persons served by the system.

If a public hearing is requested, the director shall set a time and place for the hearing and such hearing shall be held before the Department of Health and Human Services Regulation and Licensure prior to the variance or exemption being issued. Frivolous and insubstantial requests for a hearing may be denied by the director. An exemption or variance shall be conditioned on monitoring, testing, analyzing, or other requirements to insure the protection of the public health. A variance or an exemption granted shall include a schedule of compliance under which the public water system is required to meet each contaminant level or treatment technique requirement for which a variance or an exemption is granted within a reasonable time as specified by the director with the approval of the council.

Sec. 55. Section 71-6053, Revised Statutes Supplement, 2000, is

amended to read:

71-6053. For the purpose of sections 71-6053 to 71-6068, unless the context otherwise requires:

(1) Accredited institution means a postsecondary educational institution approved by the board;

(2) Active license means a license issued by the board to an administrator who meets the continuing education requirements of section 71-6060 and who submits the fee required by section 71-6061;

(3) Administrator or nursing home administrator means any individual who meets the education and training requirements of section 71-6054 and is responsible for planning, organizing, directing, and controlling the operation of a home for the aged or infirm, a nursing home, or an integrated system or who in fact performs such functions, whether or not such functions are shared by one or more other persons. Notwithstanding this subdivision or any other provision of law, the administrator of an intermediate care facility for the mentally retarded may be either a licensed nursing home administrator or a qualified mental retardation professional;

(4) Administrator-in-training means a person who is undergoing training to become a nursing home administrator and is directly supervised in a home for the aged or infirm or nursing home by a certified preceptor;

(5) Board means the Board of Examiners in Nursing Home Administration;

(6) Certified preceptor means a person who is currently licensed by the State of Nebraska as a nursing home administrator, has three years of experience as a nursing home administrator, has practiced within the last two years in a home for the aged or infirm or a nursing home, and is approved by the board to supervise an administrator-in-training or a person in a mentoring program;

(7) Core educational requirements means courses necessary for licensure as a nursing home administrator and includes courses in patient care and services, social services, financial management, administration, and rules, regulations, and standards relating to the operation of a health care facility;

(8) Degree or advanced degree means a baccalaureate, master's, or doctorate degree from an accredited institution and which includes studies in the core educational requirements;

(9) Degree or advanced degree in health care means a baccalaureate, master's, or doctorate degree from an accredited institution in health care, health care administration, or services;

(10) Department means the Department of Health and Human Services Regulation and Licensure;

(11) Home for the aged or infirm or nursing home means any institution or facility licensed as a nursing facility or a skilled nursing facility by the department pursuant to the Health Care Facility Licensure Act, whether proprietary or nonprofit, including, but not limited to, homes for the aged or infirm owned or administered by the federal or state government or an agency or political subdivision thereof;

(12) Integrated system means a health and human services organization offering different levels of licensed care or treatment on the same premises;

(13) Internship means that aspect of the educational program of the associate degree in long-term care administration which allows for practical experience in a home for the aged or infirm or nursing home and occurs under the supervision of a certified preceptor;

(14) License means permission to engage in nursing home administration which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisites and qualifications that allow them to perform nursing home administration tasks and use the title nursing home administrator;

(15) Nursing degree means a degree or diploma in nursing from an accredited program of ~~professional~~ nursing approved by the Board of Nursing;

(16) Previous work experience means at least two years working full time in a nursing home or home for the aged or infirm or previous work experience in health care administration; and

(17) Previous work experience in health care administration means at least two years working full time as an administrator or director of nursing of a hospital with a long-term care unit or assisted-living facility or director of nursing in a nursing home or home for the aged or infirm.

Sec. 56. Section 71-6054, Revised Statutes Supplement, 2000, is amended to read:

71-6054. (1) (a) The board shall issue a license to an applicant who submits (i) satisfactory evidence of completion of (A) an associate degree

which includes the core educational requirements and an administrator-in-training program under a certified preceptor, (B) a degree or an advanced degree and a mentoring program under a certified preceptor, (C) a nursing degree, previous work experience in health care administration, and a mentoring program under a certified preceptor, (D) a degree or an advanced degree in health care and previous work experience in health care administration, or (E) an associate degree which includes the core educational requirements, previous work experience, and a mentoring program under a certified preceptor, (ii) evidence of successful passage of the National Association of Boards of Examiners for Nursing Home Administration written examination, ~~and a state examination that covers applicable state statutes and rules and regulations adopted and promulgated by the department as approved by the board,~~ and (iii) his or her social security number. The board shall license administrators in accordance with sections 71-6053 to 71-6068 and standards, rules, and regulations adopted and promulgated by the board pursuant to such sections. The license shall not be transferable or assignable. Each administrator shall be full time and responsible for the operation of only one licensed facility or one integrated system, except that an administrator may oversee the operations of more than one licensed facility if such facilities are located within ten miles of each other and the combined number of licensed beds in such facilities does not exceed sixty-five. Administrators overseeing the operations of an integrated system are subject to disciplinary action against their license for any regulatory violations within such integrated system.

(b) Notwithstanding the provisions of sections 71-6053 to 71-6068, the board shall issue a license as a nursing home administrator to an applicant who will function as the administrator of a facility caring primarily for persons with head injuries and associated disorders who submits satisfactory evidence that he or she (i) has at least two years of experience working with persons with head injuries or severe physical disabilities, at least one of which was spent in an administrative capacity, (ii) is (A) a psychologist with at least a master's degree in psychology from an accredited college or university and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, (B) a physician licensed under the Uniform Licensing Law to practice medicine and surgery or psychiatry and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, (C) an educator with at least a master's degree in education from an accredited college or university and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, or (D) a certified social worker, a certified master social worker, or a licensed mental health practitioner certified or licensed under the Uniform Licensing Law and has at least three years of social work or mental health practice experience and specialized training or one or more years of experience working with persons who have experienced traumatic head injury or are severely physically disabled, and (iii) is of good moral character. The applicant shall also provide his or her social security number.

A license issued pursuant to this subdivision shall be issued without examination and without the requirement of completion of an administrator-in-training or mentoring program. Such license may be renewed without the completion of any continuing education requirements.

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

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

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

(3) Licenses may be denied, suspended, limited, refused renewal, or revoked by the department for due cause which shall include: (a) Fraud in procuring a license; (b) immoral, unprofessional, or dishonorable conduct; (c) habitual intoxication or addiction to the use of drugs; (d) distribution of intoxicating liquors or drugs for other than lawful purposes; (e) conviction of a felony; (f) physical or mental incapacity to perform professional duties; (g) violation of any provision of sections 71-6053 to 71-6068 or standards, rules, and regulations adopted and promulgated thereunder or of any law or standards, rules, and regulations adopted and promulgated by the department relating to the proper administration and management of a home for the aged or infirm or nursing home; (h) commission of any of the acts or offenses set

forth in sections 71-147 and 71-148; and (i) failure to pay the required fees. Except in cases of failure to pay the required fees, no license shall be denied, suspended, limited, refused renewal, or revoked except after due notice and opportunity for a hearing. Disciplinary actions and proceedings shall be conducted as specified in the Uniform Licensing Law. Any denial, suspension, limitation, refusal of renewal, or revocation of such license may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. A person whose license has been revoked, suspended, or limited may petition the board for reinstatement in the manner provided by sections 71-161.04 to 71-161.06.

Sec. 57. Section 71-6056, Revised Statutes Supplement, 2000, is amended to read:

71-6056. The board may issue a license to any person who passes the state examination specified in subdivision (1)(a)(ii) of section 71-6054 and who holds a current nursing home administrator license from another jurisdiction.

Sec. 58. Section 71-6057, Reissue Revised Statutes of Nebraska, is amended to read:

71-6057. The examination for a license shall consist of a national standardized examination. ~~and state examination.~~ The passing score on the examination shall be determined by the board. ~~Examinations shall be administered by the department to applicants who make application and payment of fees as specified in section 71-6061.~~ The department shall give notice of the time and place of the examination in ample time to allow all candidates to comply with the requirements of sections 71-6053 to 71-6068. Prior to each examination the department may prepare a list of applicants who are eligible to take the examination as determined by the board. ~~The identity of persons taking the examination shall not be disclosed upon the examination paper in such a way as to enable the board to know by whom the examination was written.~~

The board may adopt and promulgate rules and regulations regarding identification and grading of machine-scored examinations. Every examination shall be passed upon in accordance with the established rules and regulations of the board, and in cases of dispute, a majority of the members of the board shall decide. After each administration of an examination, the board shall certify the grades of the applicants in the manner prescribed by the board. The board shall then issue the proper license and make the required entry in the registry record. All question and answer papers or sheets or photostatic or other copies of such questions and answer papers or sheets connected with any examination for licensure shall be filed with the department and preserved ~~for two years as part of its records or, whenever national standardized examinations governed by security considerations are utilized,~~ shall be available from the testing service for a period of two years during which time such answer papers or sheets shall be open to inspection by an applicant, by the dean of his or her college, or by any other proper representative of such college as determined by rules and regulations. Any national standardized machine-graded or computer-scored examination questions or answers which are protected by security agreements, copyright provisions, or departmental or state contractual agreements for use ~~shall not be required to be on file with the department but~~ shall be available for a period of two years upon demand, from any testing service utilized, at the discretion of the department or upon order of a court of competent jurisdiction. The board may adopt and promulgate rules and regulations to provide for the review of procedures for development and administration of examinations and to protect the security of the content of examination questions and answers. The board shall not enter into an agreement to adopt an examination from a national testing service without first obtaining from that service detailed documentation of the process of examination development and maintenance.

Sec. 59. Section 71-6060, Revised Statutes Supplement, 2000, is amended to read:

71-6060. (1) Each administrator holding an active license shall be required on or before December 31 of each even-numbered year, ~~commencing in 1986,~~ to attend at least fifty hours biennially of approved schools, clinics, forums, lectures, or educational seminars relating to health care administration as may be announced and approved by the board within the State of Nebraska or by the governing board, agency, or department in some other state or territory or the District of Columbia as prerequisite for the Nebraska licensee's next subsequent biennial license renewal. Each licensee shall certify on an affidavit form provided by the department that he or she has complied with the requirements set forth in this section during the preceding two-year period. The sworn affidavit shall contain a listing of continuing education activities which he or she participated in or attended, the amount of credit received for each activity, and the date, location, and

name of the approved provider which sponsored the activity on a separate form or portion of the license renewal application as may be designated by the department. Each licensee shall be responsible for maintaining in his or her personal files such certificates of records of credit from continuing education activities received from approved providers. Licensees who have not complied with such requirements shall not be issued a renewal license unless exempt for any of the following reasons:

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

(b) The licensee submits proof that he or she was suffering from a serious or disabling illness or physical disability which prevented his or her attendance at any approved school, clinic, forum, lecture, or educational seminar within the State of Nebraska or any other state or territory or the District of Columbia during the twenty-four months immediately preceding the Nebraska license renewal date;

(c) The licensee was first licensed within the twenty-four months immediately preceding the Nebraska license renewal date; or

(d) The licensee did not reside in Nebraska during the twenty-four months immediately preceding the Nebraska license renewal date.

(2) An individual licensed pursuant to sections 71-6053 to 71-6068 may request to have his or her license placed on inactive status upon its expiration. The request shall be submitted to the department in writing, along with payment of a fee of thirty-five dollars set pursuant to section 71-6061. The department shall notify the licensee in writing of the acceptance or denial of such request. If placed on inactive status, the license may remain in such status for an indefinite period of time. An inactive license may be placed on active status upon completion by the licensee of all continuing education requirements in effect at the time of such request and payment of the license renewal fee then due.

(3) Providers of continuing education or licensees may submit courses for review and approval by the board. Each provider or licensee applying for approval of continuing education courses shall pay an application fee of thirty-five dollars set pursuant to section 71-6061 for each program, seminar, or course submitted for review. Such fee shall be retained by the board and disposed of in the manner specified in section 71-6061.

Sec. 60. Section 71-6061, Revised Statutes Supplement, 2000, is amended to read:

71-6061. (1) Every administrator shall be licensed by the board. All licenses, except provisional and inactive licenses, shall be renewed in each even-numbered year ~~beginning in 1988~~ upon the payment of the renewal fee. Procedures for renewal and for assessment of additional fees for late renewal shall be in accordance with section 71-110. All fees collected under this section shall be payable to the department and shall then be ~~paid monthly by the department~~ remitted to the State Treasurer who shall keep the same in a special fund to be known as for credit to the Board of Examiners in Nursing Home Administration Fund, which fund is created. The fund shall be used and expended by the department to pay the compensation and travel expenses of members ~~and employees of the board and employees of the department~~ and other expenses necessary for the board ~~and the department to administer and carry out~~ sections 71-6053 to 71-6068.

(2) The fees to be paid by the applicants and licensees shall be established by the department in rules and regulations in an amount to cover the expenses necessary to administer sections 71-6053 to 71-6068. The fees shall be within a range as follows:

(a) Fee for initial licensure examination	\$100.00
<del>(nonrefundable)</del>	
(b) Fee for initial license	\$250.00
(c) Fee for examination by reciprocity	\$ 50.00
<del>(nonrefundable)</del>	
(d) Fee for reciprocity license	\$250.00
(e) Application for provisional license valid for a period of only one hundred eighty calendar days	\$100.00
<del>(nonrefundable)</del>	
(f) Preceptor certification fee	\$ 25.00
(g) Administrator-in-training certificate fee	\$ 50.00
(h) Fee for renewal of an active license	\$350.00
(i) License reinstatement fee	\$ 10.00
(j) Application fee for approval of a continuing education course	\$ 35.00
(k) Fee for certification of a statement that a licensee is licensed in this state	\$ 5.00

(l) Fee for a duplicate original license	\$ 5.00
<del>(m) Mentoring certificate fee</del>	<del>\$ 50.00</del>
(a) Initial licensure	\$100.00 - 350.00
(b) Reciprocal licensure	\$100.00 - 350.00
(c) Provisional licensure	\$ 50.00 - 200.00
(d) Preceptor certification	\$ 25.00 - 100.00
(e) Administrator-in-training	\$ 50.00 - 100.00
<u>certification</u>	
(f) License renewal	\$100.00 - 500.00
(g) License reinstatement	\$ 10.00 - 25.00
(h) Continuing education course approval	\$ 10.00 - 50.00
(i) Licensee certification	\$ 5.00 - 25.00
(j) Duplicate original license	\$ 5.00 - 10.00
(k) Mentoring certification	\$ 25.00 - 100.00
(l) Inactive status application	\$ 35.00 - 50.00

Sec. 61. Section 71-6065, Revised Statutes Supplement, 2000, is amended to read:

71-6065. (1) The Board of Examiners in Nursing Home Administration is created. The board shall be under the supervision of the department and shall consist of a designated representative of the Policy Cabinet described in section 81-3009 and the following members appointed by the State Board of Health: (a) Two members who hold active licenses and are currently employed in the management, operation, or ownership of proprietary homes for the aged or infirm or nursing homes that serve the aged or infirm in Nebraska; (b) two members who hold active licenses and are currently employed in the management or operation of a nonprofit home for the aged or infirm or nursing home or hospital caring for chronically ill or infirm, aged patients; (c) one member who is a member of the faculty of a college or university located in the state who is actively engaged in a teaching program relating to business administration, social work, gerontology, or some other aspect of the administration of health care facilities; (d) one member who is a licensed physician and surgeon with a demonstrated interest in long-term care; (e) one member who is a licensed registered ~~professional~~ nurse; and (f) two members who are laypersons, at least the age of majority, residents of this state for at least five years preceding appointment, and representative of consumer viewpoints. The members of the board shall serve as members of such board until the expiration of their respective terms or until their successors have been appointed and qualified. Each appointed member who is an administrator shall be licensed pursuant to sections 71-6053 to 71-6068.

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

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

(4) The department shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board and which establish procedures in the case such a conflict arises.

Sec. 62. Section 71-6066, Revised Statutes Supplement, 2000, is amended to read:

71-6066. The board shall elect from its appointed members a chairperson, a vice-chairperson, and such other officers as it deems necessary. The members of the board who are not officers or employees of the State of Nebraska shall, in addition to necessary travel and lodging expenses, receive a per diem for each day actually engaged in the discharge of their duties. ~~including compensation for the time spent in traveling to and from the place of conducting the examination and, with the exception of board members who are laypersons, for a reasonable number of days for the preparation of examination questions and the reading of the answer papers, in addition to the time actually spent in conducting the examination.~~ Traveling and lodging expenses shall be reimbursed as provided in sections 81-1174 to 81-1177. The compensation per day shall not exceed thirty dollars and shall

be determined by the board. All expenses of the board and in the administration of sections 71-6053 to 71-6068 shall be paid from the Board of Examiners in Nursing Home Administration Fund. The board shall receive all license renewal funds above the necessary operating expenses incurred by the department for renewal of licensure. Any surplus in funds at the end of the biennium shall be retained by the board for future expenditures. Expenses of members who are in the employ of the state shall be paid from the appropriation to their respective departments.

Sec. 63. Section 71-6603, Reissue Revised Statutes of Nebraska, is amended to read:

71-6603. On and after September 6, 1991, no person shall act as a home health aide unless such person:

- (1) Is at least eighteen years of age;
- (2) Is of good moral character;
- (3) Has not been convicted of a crime under the laws of this state or another jurisdiction, the penalty for which is imprisonment for a period of more than one year and which is rationally related to the person's fitness or capacity to act as a home health aide;
- (4) Is able to speak and understand the English language or the language of the home health agency patient and the home health agency staff member who acts as the home health aide's supervisor;
- (5) Meets one of the following qualifications:
  - (a) Has successfully completed a home health aide training course which meets the standards described in section 71-6608.01;
  - (b) Is a graduate of a ~~practical or~~ professional school of nursing;
  - (c) Has been employed by a licensed home health agency as a home health aide II prior to September 6, 1991;
  - (d) Has successfully completed a course in a ~~practical or~~ professional school of nursing which included practical clinical experience in fundamental nursing skills and has completed a competency evaluation as described in section 71-6608.02;
  - (e) Has successfully completed a basic course of training approved by the department for nursing assistants as required by section 71-6039 and has completed a competency evaluation as described in section 71-6608.02;
  - (f) Has been employed by a licensed home health agency as a home health aide I prior to September 6, 1991, and has completed a competency evaluation as described in section 71-6608.02; or
  - (g) Has met the qualifications equal to one of those contained in subdivisions (a) through (f) of this subdivision in another state or territory of the United States; and
  - (6) Has provided to the employing licensed home health agency proof of meeting the requirements of this section.

Sec. 64. Section 71-7611.04, Revised Statutes Supplement, 2001, is amended to read:

71-7611.04. It is the intent of the Legislature to appropriate from the Nebraska Health Care Cash Fund as follows:

- (1) One hundred fifty thousand dollars in fiscal year 2001-02 and one hundred fifty thousand dollars in fiscal year 2002-03 to the Department of Health and Human Services for the development and implementation of new respite programs in each of the service areas designated by the Policy Cabinet established in section 81-3009;
- (2) One hundred thousand dollars in fiscal year 2001-02 and one hundred thousand dollars in fiscal year 2002-03 to the Department of Health and Human Services for personnel and other administrative costs related to the Nebraska Lifespan Respite Services Program; and
- (3) Eight hundred ten thousand dollars in fiscal year 2001-02 and eight hundred ten thousand dollars in fiscal year 2002-03 to the Department of Health and Human Services Finance and Support to aid in carrying out the Nebraska Lifespan Respite Services Program to provide payment to caregivers to purchase services under the respite subsidy program.

Sec. 65. Section 81-1316, Revised Statutes Supplement, 2000, is amended to read:

81-1316. (1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;

- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;
- (o) All personnel of the University of Nebraska;
- (p) All personnel of the Coordinating Commission for Postsecondary Education;
- (q) All personnel of the Governor's Policy Research Office, but not to include personnel within the State Energy Office;
- (r) All agency heads; and
- (s) The Director of Medical Services established under section 83-125 and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Thomas Fitzgerald Veterans' Home, ~~and~~ Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
less than 25	0
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11
4001 to 5000	14
over 5000	17

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head.

In no case shall a current state employee's career protections or coverage by personnel rules and regulations be revoked without the prior written agreement of such employee.

Sec. 66. Section 83-126, Reissue Revised Statutes of Nebraska, is amended to read:

83-126. The Director of Health and Human Services shall appoint the chief executive officer of each facility referred to in ~~subdivision (1) of section 83-101.06~~ section 83-107.01. Each chief executive officer shall report to the director or his or her designee and shall serve full time and without term at the pleasure of the director.

Sec. 67. The Revisor of Statutes shall assign section 51 of this act to Chapter 71, article 20.

Sec. 68. Sections 1, 3, 4, 10, 12, 13, 18 to 66, and 70 of this act become operative three calendar months after adjournment of this legislative session. Sections 6 to 9 and 71 of this act become operative on July 1, 2002. The other sections of this act become operative on their effective date.

Sec. 69. Original sections 42-358, 43-3342.05, and 71-1,103, Revised Statutes Supplement, 2000, and sections 71-101, 71-183.02, and 71-193.16, Revised Statutes Supplement, 2001, are repealed.

Sec. 70. Original sections 44-2901, 71-1,132.04, 71-1,132.06, 71-1,132.16, 71-1,132.18, 71-1,132.24, 71-1,132.25, 71-1,132.35, 71-1,231, 71-1729, 71-1757, 71-1761, 71-1787, 71-2412, 71-6057, 71-6603, and 83-126, Reissue Revised Statutes of Nebraska, sections 23-3502, 43-3342.01, 43-3342.03, 71-131, 71-139.01, 71-1,104, 71-1,132.07, 71-1,132.11, 71-1,132.13, 71-1,132.20, 71-1,134, 71-1,136.03, 71-1,139.01, 71-1,158, 71-1,160, 71-1,161, 71-404, 71-428, 71-432, 71-434, 71-436, 71-438, 71-456, 71-1723.02, 71-6053, 71-6054, 71-6056, 71-6060, 71-6061, 71-6065, 71-6066, and 81-1316, Revised Statutes Supplement, 2000, and sections 71-1,147.53, 71-2421, 71-5310, and 71-7611.04, Revised Statutes Supplement, 2001, are repealed.

Sec. 71. Original sections 44-3,144, 44-3,145, 44-3,146, and

44-3,149, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 72. The following sections are outright repealed: Sections 42-383 to 42-386, Revised Statutes Supplement, 2000.

Sec. 73. Since an emergency exists, this act takes effect when passed and approved according to law.