

## LEGISLATIVE BILL 1021

Approved by the Governor April 18, 2002

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

AN ACT relating to public health and welfare; to amend sections 46-1222, 46-1225, 46-1235.02, 71-149, 71-161.05, 71-1,155, 71-1,162, 71-1,193, 71-1,195.01, 71-1,206.31, 71-1,228, 71-1,280, 71-1,292, 71-1,294, 71-1,315, 71-1,321, 71-1,326, 71-1,330, 71-397, 71-3,107, 71-3,108, 71-3,112, 71-3,115, 71-3,117, 71-1326, 71-1354, 71-1757, 71-1779, 71-1782, 71-1788, 71-3503, 71-3508.03, 71-3517, 71-3709, 71-4301, 71-4302, 71-4305, 71-4702.01, 71-4711, 71-4716, 71-6302, 71-6303, 71-6310.02, 81-649, 81-666, and 81-673, Reissue Revised Statutes of Nebraska, sections 71-131, 71-139, 71-161.09, 71-174.01, 71-175.01, 71-179.01, 71-185, 71-1,107.25, 71-1,132.11, 71-1,132.20, 71-1,144.01, 71-1,165, 71-1,234, 71-341, 71-377, 71-382, 71-3,179, 71-3,196, 71-3,197, 71-3,198, 71-3,202, 71-3,205, 71-3,206, 71-1718.02, 71-1722, 71-1724 to 71-1724.02, 71-1730, 71-1735, 71-1755, 71-3507, 71-3515.01, 71-3515.02, 71-3710, 71-5179, 71-5206.01, 71-6053, 71-6054, 71-6060, 71-6067, 71-6327, 71-6725, and 71-6734, Revised Statutes Supplement, 2000, and sections 71-101, 71-110 to 71-112, 71-161.10, 71-1,136.01, 71-2802, 71-2815, 71-2823, 71-3519, 71-5178, 71-5308, 71-6103, 71-6113, 71-6115, 71-6321, and 81-6,105, Revised Statutes Supplement, 2001; to provide and change continuing education provisions for certain professions and occupations; to change provisions relating to licensure, registration, enforcement, fees, and administrative costs under the Radiation Control Act; to provide and change penalties; to change provisions relating to regulation of swimming pools, medication aides, and medical registries; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 71-1,144.03, 71-3,109 to 71-3,111, 71-3,113, 71-3,114, 71-3,116, 71-3,118, 71-1347, and 71-1349 to 71-1353, Reissue Revised Statutes of Nebraska, sections 71-1,144.04, 71-3,199 to 71-3,201, 71-3,203, 71-3,204, and 71-3,207, Revised Statutes Supplement, 2000, and section 71-1,144.05, Revised Statutes Supplement, 2001.

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

Section 1. Section 46-1222, Reissue Revised Statutes of Nebraska, is amended to read:

46-1222. The board shall adopt and promulgate rules and regulations for the administration of its duties under the Water Well Standards and Contractors' Licensing Act, including examinations, fees, and continuing education competency requirements.

Sec. 2. Section 46-1225, Reissue Revised Statutes of Nebraska, is amended to read:

46-1225. (1) The board shall ~~require that each individual adopt and promulgate rules and regulations to establish continuing competency requirements for persons licensed or certified pursuant to~~ under the Water Well Standards and Contractors' Licensing Act. ~~Continuing education is sufficient to meet continuing competency requirements. Such requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensed or certified person may select as an alternative to continuing education. shall attend at least eighteen hours of continuing education in any three-year period in approved schools, clinics, forums, lectures, courses of study, or educational seminars relating to the practice of such profession or occupation as a prerequisite for the renewal of a license or certificate. The board shall consult with the appropriate professional academies, professional societies, and professional associations in the development of educational programs designed to promote the utilization and application of new techniques, advances, and the achievements of research assuring expansive and comprehensive service to the public. Such continuing education shall be obtained at a school, clinic, forum, lecture, course of study, or educational seminar approved by the board which may be held either within or outside the state. At least eighteen hours of approved schools, clinics, forums, lectures, courses of study, or educational seminars shall be available at approved schools, clinics, forums, lectures, courses of study, or educational seminars held within the State of~~

Nebraska in any three-year period. The department may contract with institutions of higher learning, professional organizations, or qualified individuals to provide continuing education programs if the continuing education required pursuant to this section is not otherwise available.

(2) Each renewal applicant shall, on or before the date of expiration of his or her license or certificate, complete documentation as required in the year the requirement applies, certify on an affidavit form provided by the board that he or she has complied with the continuing education requirement competency requirements during the preceding period. The board shall, on or before the date of expiration of the license or certificate in the year the requirement applies, report all licensees and certificate holders who have complied with the educational requirement to the Director of Regulation and Licensure. Any licensee or certificate holder who has not complied with the educational requirement continuing competency requirements shall not be issued a renewal license or certificate, unless he or she is exempted from the requirement continuing competency requirements or he or she is unable to comply with the requirement requirements due to circumstances beyond his or her control as determined by the board. Procedures for refusal of renewal of licenses and certificates or reinstatement of licenses and certificates shall be in accordance with section 46-1237.

Sec. 3. Section 46-1235.02, Reissue Revised Statutes of Nebraska, is amended to read:

46-1235.02. (1) A person who has been disciplined by means other than suspension or revocation of his or her license or certificate may apply for reinstatement of the license or certificate at any time.

(2) A person whose certificate or license has been revoked may apply for reinstatement of the license or certificate after a period of not less than one year has elapsed from the date of revocation.

(3) The application for reinstatement shall state such pertinent facts as may be required by the department and shall be accompanied by at least two verified recommendations of the activities of the applicant since the date of the suspension, revocation, or other discipline. The department shall prescribe forms for application for reinstatement. An applicant for reinstatement shall complete the continuing education competency requirements of section 46-1225 before reinstatement in effect at the time of application.

(4) In determining whether to approve an application for reinstatement, the department may (a) investigate and consider the activities of the applicant since the disciplinary action was taken, including, but not limited to, activities prohibited by the Water Well Standards and Contractors' Licensing Act, the act or offense for which disciplinary action was taken, the applicant's conduct while the license or certificate was in good standing, and the applicant's general reputation for truth, professional ability, and good character, (b) require the applicant to take additional training, and (c) require the applicant to pass the examination.

(5) Denial of an application for reinstatement may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 4. 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 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 pursuant to sections 71-111 and 71-112;

(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. 5. Section 71-110, Revised Statutes Supplement, 2001, is amended to read:

71-110. (1) The credential to practice a profession shall be renewed biennially without examination upon request of the credentialed person, without examination and upon documentation of continuing competency pursuant to sections 71-161.09 and 71-161.10. The biennial credential renewals provided for in this section shall be accomplished in such manner as the department, with the approval of the appropriate designated professional board, shall establish by rule and regulation. The biennial expiration date in the different professions shall be as follows:

- (a) January, pharmacy and psychology;
- (b) February, funeral directing and embalming;
- (c) March, dentistry and dental hygiene;
- (d) April, podiatry and veterinary medicine and surgery;
- (e) May, athletic training and acupuncture;
- (f) June, respiratory care;
- (g) August, chiropractic and optometry;
- (h) September, medical nutrition therapy, mental health practice including any associated certification, and osteopathic medicine;
- (i) October, medicine and surgery;
- (j) November, massage therapy and physical therapy; and
- (k) December, audiology and speech-language pathology.

The request for renewal need not be in any particular form and shall be accompanied by the legal fee. Such fee shall be paid not later than the date of the expiration of such credential, except that while actively engaged in the military service of the United States, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, as the act existed on ~~September 17, 2001~~ January 1, 2002, persons credentialed to practice the professions listed in this subsection shall not be required to pay the renewal fee.

(2) When a person credentialed pursuant to the Uniform Licensing Law desires to have his or her credential lapse upon expiration, he or she shall notify the department of such desire in writing. The department shall notify the credentialed person in writing of the acceptance or denial of the request to allow the credential to lapse. When the lapsed status becomes effective, the right to represent himself or herself as a credentialed person and to practice the profession in which a license is required shall terminate. To restore the credential, such person shall be required to meet the requirements for credentialing which are in effect at the time that he or she wishes to restore the credential.

(3) When a person credentialed pursuant to the Uniform Licensing Law desires to have his or her credential placed on inactive status upon its expiration, he or she shall notify the department of such desire in writing and pay a fee of thirty-five dollars. The department shall notify the credentialed person in writing of the acceptance or denial of the request to allow the credential to be placed on inactive status. When the credential is placed on inactive status, the credentialed person shall not engage in the practice of such profession. A credential may remain on inactive status for an indefinite period of time. In order to move a credential from inactive to active status, a person shall complete the continuing education competency requirements in effect at the time he or she wishes to regain active status and pay the renewal fee then due.

(4) At least thirty days before the expiration of a credential, the department shall notify each credentialed person by a letter addressed to him or her at his or her last place of residence as noted upon its records. Any

credentialed person who fails to notify the department of his or her desire to let his or her credential lapse or be placed on inactive status upon its expiration or who fails to pay the renewal fee on or before the date of expiration of his or her credential shall be given a second notice in the same manner as the first notice advising him or her (a) of the failure to pay, (b) that the credential has expired, (c) that the department will suspend action for thirty days following the date of expiration, (d) that upon the receipt of the renewal fee, together with an additional fee of twenty-five dollars, within that time, no order of revocation will be entered, and (e) that upon the failure to receive the amount then due and twenty-five dollars in addition to the regular renewal fee, the credential will be revoked in the manner prescribed in section 71-149.

(5) Any credentialed person who fails to renew his or her credential may be reinstated upon the recommendation of the board for his or her profession and the payment of the renewal and any additional fees and an additional fee of fifty dollars if an application for reinstatement is made more than thirty days after expiration and not more than one year from the date of revocation.

(6) Any credentialed person who applies for reinstatement more than one year after revocation shall pay the renewal fee and an additional fee of seventy-five dollars and petition the board to recommend reinstatement as prescribed in section 71-161.05.

Sec. 6. Section 71-111, Revised Statutes Supplement, 2001, is amended to read:

71-111. ~~For the purpose of giving examinations to applicants for license to practice the professions for which a license is required by the Uniform Licensing Law or for the purpose of certification or registration, the~~ The State Board of Health shall appoint members to the ~~a professional board boards designated in section 71-112~~ for each of the professions under the Uniform Licensing Law. ~~except osteopathic medicine and surgery and acupuncture.~~

Sec. 7. Section 71-112, Revised Statutes Supplement, 2001, is amended to read:

71-112. ~~The professional boards provided in section 71-111~~ (1) Professional boards under the Uniform Licensing Law shall be designated as follows:

- ~~(1)~~ (a) For medicine and surgery, acupuncture, and osteopathic medicine and surgery, Board of Medicine and Surgery;
- ~~(2)~~ (b) For athletic training, Board of Athletic Training;
- ~~(3)~~ (c) For respiratory care, Board of Respiratory Care Practice;
- ~~(4)~~ (d) For chiropractic, Board of Chiropractic;
- ~~(5)~~ (e) For dentistry and dental hygiene, Board of Dentistry;
- ~~(6)~~ (f) For optometry, Board of Optometry;
- ~~(7)~~ (g) For massage therapy, Board of Massage Therapy;
- ~~(8)~~ (h) For physical therapy, Board of Physical Therapy;
- ~~(9)~~ (i) For pharmacy, Board of Pharmacy;
- ~~(10)~~ (j) For audiology and speech-language pathology, Board of Audiology and Speech-Language Pathology;
- ~~(11)~~ (k) For medical nutrition therapy, Board of Medical Nutrition Therapy;
- ~~(12)~~ (l) For funeral directing and embalming, Board of Funeral Directing and Embalming;
- ~~(13)~~ (m) For podiatry, Board of Podiatry;
- ~~(14)~~ (n) For psychology, Board of Psychologists;
- ~~(15)~~ (o) For veterinary medicine and surgery, Board of Veterinary Medicine and Surgery; and
- ~~(16)~~ (p) For mental health practice, Board of Mental Health Practice.

(2) Any change made by the Legislature of the names of boards listed in this section shall not change the membership of such boards or affect the validity of any action taken by or the status of any action pending before any of such boards. Any such board newly named by the Legislature shall be the direct and only successor to the board as previously named.

Sec. 8. 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~~ designated 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~~ shall 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 shall 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 all of its actions on broad categorical parameters derived from the essential elements of the field of medical nutrition therapy. ~~It and 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. 9. Section 71-139, Revised Statutes Supplement, 2000, is amended to read:

71-139. (1) The department may, without examination, except when a practical examination is required, issue a license to practice any profession,

except pharmacy, podiatry, dentistry, medicine and surgery, optometry, osteopathic medicine and surgery or as an osteopathic physician, and audiology and speech-language pathology, to a person who has been in the active practice of ~~that~~ such profession in ~~some other~~ another state or territory of the United States or the District of Columbia upon ~~the certificate of~~ (a) certification by the proper licensing authority of the state, territory, or District of Columbia certifying that (i) the applicant is duly licensed, ~~that~~ (ii) his or her license has never been suspended or revoked, and ~~that,~~ (iii) so far as the records of such authority are concerned, the applicant is entitled to its endorsement.

~~The applicant shall also present and~~ (b) proof of the following things:

~~(1) (i) That the state, territory, or District of Columbia from which the applicant comes shall have and maintain~~ has and maintains standards regulating ~~his or her~~ such profession equal to those maintained in ~~that profession by Nebraska~~ this state;

~~(2) (ii) That his or her license there was based upon a written examination and the grades given at such examination;~~

~~(3) (iii) The date of his or her license;~~

~~(4) (iv) That such licensee he or she has been actively engaged in the practice of such profession under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for license by reciprocity;~~

~~(5) (v) That the applicant is of good moral character and standing in his or her profession as evidenced by completing under oath an application from the department containing such a statement; and~~

~~(6) (vi) That the applicant has been in the active and continuous practice of such profession under license by examination in the such state, territory, or District of Columbia from which he or she comes for at least one year.~~

(2) An applicant for reciprocal registration coming from any state may be licensed by reciprocity if his or her individual qualifications meet the Nebraska legal requirements.

(3) The department may issue certificates or registrations on a reciprocal basis to persons who are required to be certified or registered pursuant to the Uniform Licensing Law. The department may adopt and promulgate rules and regulations for reciprocity pursuant to this section.

(4) Persons who graduate from schools or colleges of osteopathic medicine accredited by the department on recommendation of the Board of Examiners in Osteopathy since January 1, 1963, and prior to May 23, 1981, and after May 23, 1981, persons who graduate from schools or colleges of osteopathic medicine accredited by the department on recommendation of the Board of Medicine and Surgery who meet the requirements of this section and who have passed a written examination which is equivalent to that required in section 71-1,104 as determined by the Board of Medicine and Surgery and who meet the requirements of section 71-1,137 for the practice of osteopathic medicine and surgery as evidenced by a certificate of the Board of Medicine and Surgery may be granted a license to practice osteopathic medicine and surgery as defined in section 71-1,137 if such person has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for license by reciprocity. Graduates of an accredited school or college of osteopathic medicine since January 1, 1963, who meet the requirements of this section and who meet the applicable requirements of section 71-1,139.01 as certified by the Board of Medicine and Surgery may be granted a special license as doctor of osteopathic medicine and surgery.

(5) The department may approve without examination any person who has been duly licensed to practice optometry in ~~some other~~ another state or territory of the United States ~~of America~~ or ~~in~~ the District of Columbia under conditions and circumstances which the Board of Optometry shall find to be comparable to the requirements of the State of Nebraska for obtaining a license to practice optometry if such person has been actively engaged in the practice under such license for at least one of the three years immediately preceding the application for license by reciprocity. The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training. The applicant shall ~~submit a certificate of~~ provide certification from the proper licensing authority of the state, territory, or District of Columbia where he or she is licensed to practice such profession certifying that he or she 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 he or she is entitled to its

endorsement. If the applicant is found to meet the requirements provided in this section and is qualified to be licensed to practice the profession of optometry in the State of Nebraska, the board shall issue a license to practice optometry in the State of Nebraska to such applicant.

(6) The Board of Dentistry may approve any person who has been duly licensed to practice dentistry or dental hygiene in ~~some other~~ another 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 dentistry or dental hygiene if such person has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least three years, one of which ~~must~~ shall be within the three years immediately preceding the application for license by reciprocity. 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 ~~submit a certificate of~~ provide certification from the proper licensing authority of the state, territory, or District of Columbia where he or she is licensed to practice such profession ~~certifying~~ that he or she 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 he or she is entitled to its endorsement. The applicant shall submit evidence of completion during the twelve-month period preceding the application of continuing ~~education~~ competency requirements comparable to the requirements of this state. The board may administer an oral examination to all applicants for licensure by reciprocity to assess their knowledge of basic clinical aspects of dentistry or dental hygiene. If the applicant is found by the board to meet the requirements provided in this section, the board shall certify such fact to the department, and the department upon receipt of such certification shall issue a license to practice dentistry or dental hygiene in the State of Nebraska to such applicant. If the board finds that the applicant does not satisfy the requirements of this section, the board shall certify its findings to the department. The Director of Regulation and Licensure shall review the findings, and ~~shall, if in agreement~~ he or she agrees with the findings, the director shall deny the application.

Sec. 10. Section 71-149, Reissue Revised Statutes of Nebraska, is amended to read:

71-149. (1) ~~When any licensee, certificate holder, or registrant~~ The department shall automatically revoke, without further notice or hearing, the credential of any person who fails, within thirty days of after the expiration of a license, certificate, or registration such credential, to pay the required renewal fee, to submit proof documentation of continuing education competency, or to pay any additional fee as specified in section 71-110, the department shall automatically revoke such license, certificate, or registration without further notice or hearing and the department shall make proper record of the such revocation.

(2) ~~When any licensee, certificate holder, or registrant~~ The department shall revoke, after notice and opportunity for hearing, the credential of any person who fails, within thirty days of after expiration of a license, certificate, or registration such credential, to meet the applicable continuing education competency requirement for renewal. If such is required, the department shall revoke such license, certificate, or registration after notice and opportunity for hearing.

(3) Subsections (1) and (2) of this section shall not apply when the ~~licensee, certificate holder, or registrant~~ credentialed person has given notification to the department that he or she desires to have ~~such license, certificate, or registration~~ his or her credential lapse or be placed on inactive status upon expiration.

Sec. 11. Section 71-161.05, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.05. Any petition for reinstatement of a credential after revocation of such credential due to nonpayment of renewal fees, or noncompliance with continuing education competency requirements, or after the imposition of any disciplinary action against such credential shall state such pertinent facts as may be required by the board ~~by rule and regulation, with the approval of~~ in rules and regulations adopted and promulgated by the department. The petition shall be accompanied by ~~at least two~~ verified recommendations from ~~licensed, certified, or registered~~ at least two credentialed practitioners of the same profession as the petitioner and ~~by at least two recommendations from citizens. Recommendations shall be from persons having~~ two citizens who have personal knowledge of the activities of

the petitioner since the ~~license, certificate, or registration credential~~ was revoked or ~~since other~~ disciplinary action was imposed.

Sec. 12. Section 71-161.09, Revised Statutes Supplement, 2000, is amended to read:

71-161.09. (1) Each professional board shall establish continuing competency requirements for persons engaged in the active practice of the health care profession or occupation for which the board was designated.

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

(3) The board shall consult with the department and the appropriate professional academies, professional societies, and professional associations in the development of such requirements. The requirements shall be established in rules and regulations approved by the board and adopted and promulgated by the department.

(4) (a) For a profession or occupation for which there are no continuing education requirements on December 31, 2002, the requirements may include, but not be limited to, any one or a combination of the continuing competency activities listed in subsection (5) of this section.

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

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

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

approval of the department, may adopt and promulgate, by rules and regulations, standards of recredentialing for each person credentialed by and in active practice within the State of Nebraska. Such regulations may include the prescribed number of hours which are to be attained biennially for receiving information presented by or in the form of board-approved scientific schools, clinics, forums, lectures, courses of study, home study courses, or educational seminars relating to the practice of such profession or occupation and held within or outside the state. The board and the department shall consult with the appropriate professional academies, professional societies, and professional associations in the development of such standards. The purpose of any such action by such board shall be to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure expansive and comprehensive service to the public. The number of hours that may be required shall be prescribed by the board in such rules and regulations for any calendar year. In no instance may the board require a greater number of hours of approved scientific schools, clinics, forums, lectures, courses of study, or educational seminars than are available at approved scientific schools, clinics, forums, lectures, courses of study, or educational seminars held within the State of Nebraska.

Sec. 13. Section 71-161.10, Revised Statutes Supplement, 2001, is amended to read:

71-161.10. (1) Upon the establishment of such standards for recredentialing by any professional board, by rule and regulation, and with the approval of the department, each Each credentialed person in active

practice within the state shall, on or before the date of expiration of his or her credential, complete the requirements to document compliance with continuing competency requirements for his or her profession or occupation as specified by rules and regulations approved by the designated professional board and adopted and promulgated by the department pursuant to section 71-161.09. Except as otherwise provided in this section, the department shall not renew the credential of any in the year the requirement applies, certify on an affidavit form provided by the appropriate professional board that he or she has complied with section 71-161.09 during the preceding two-year period. The board shall, on or before the date of expiration of the credential in the year the requirement applies, report each credentialed person who has complied with the educational requirements to the department. A credentialed person who has not complied with such requirements, requirement shall not be issued a renewal credential unless such requirements are waived or unless such credentialed person is unable to comply due to circumstances beyond his or her control. Procedures for nonrenewal of the credential due to failure to submit proof of continuing education document compliance with continuing competency requirements shall be identical to those for nonpayment of renewal fees as provided in sections 71-110 and 71-149, as well as procedures for reinstatement of the same. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply. The department, on the recommendation of the appropriate designated professional board, may waive continuing education competency requirements, in whole or in part, upon submission by or in total, for any two-year credentialing period when a credentialed person submits of documentation that circumstances beyond his or her control have prevented completion of such requirements. Such circumstances shall include situations in which:

(a) The credentialed person holds a Nebraska credential but is not practicing his or her profession or occupation in Nebraska;

(b) The credentialed person has served in the regular armed forces of the United States during part of the ~~twenty-four months~~ credentialing period immediately preceding the renewal date;

(c) The credentialed person has submitted proof that he or she was ~~suffering~~ suffered from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the ~~twenty-four months~~ credentialing period immediately preceding the renewal date which prevented completion of the continuing competency requirements; and

(d) The credentialed person was first credentialed within the ~~twenty-four months~~ credentialing period immediately preceding the renewal date, except as provided in subdivision (2)(d) of section 71-1,136.01.

The department, with the consent of the appropriate designated professional board, may adopt and promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing education competency requirements.

(2) Each credentialed person shall provide a sworn affidavit listing continuing education activities in which he or she participated 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 renewal application as may be designed by the department. Each credentialed person shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing competency education activities received from approved providers.

The appropriate designated professional board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing education credits competency requirements. Each credentialed person selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars the continuing competency activities listed on his or her renewal application.

Sec. 14. Section 71-174.01, Revised Statutes Supplement, 2000, is amended to read:

71-174.01. Each Nebraska-licensed podiatrist in active practice within the State of Nebraska shall, be required on or before April 1 of each even-numbered year, to attend ~~twenty-four hours~~ biennially of such approved scientific schools, clinics, forums, lectures, or podiatric educational seminars, as may be announced and approved by the Board of Podiatry, complete continuing competency activities as required by the Board of Podiatry pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal. ~~if at least twenty-four hours of such educational program are conducted biennially in the State of Nebraska.~~

Each licensed podiatrist in active practice within the State of Nebraska shall, on or before April 1 of each even-numbered year, certify on an

affidavit form provided by the board that he or she has complied with this section during the preceding two-year period. Such board shall, on or before April 1 of each even-numbered year, report all licensees who have complied with the educational requirements to the department. Licensees who have not complied with such requirements shall not be issued a renewal license unless exempt or unable to comply due to circumstances beyond their control. Procedures for denial of renewal of the license of such licensees shall be identical to those for nonpayment of renewal fees and as provided in sections 71-110 and 71-149. The department, on the recommendation of the board, may waive continuing education requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

(1) The licensee holds a Nebraska license but is not practicing podiatry in Nebraska;

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

(3) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four months immediately preceding any license renewal date; and

(4) The licensee was first licensed within the twenty-four months immediately preceding the renewal date provided in section 71-110.

The department, with the consent of the board, may adopt and promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing education requirements.

Each licensee shall provide a sworn affidavit listing continuing education activities in which he or she participated 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 designed by the department. Each licensee shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.

The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars listed on his or her renewal application.

Sec. 15. Section 71-175.01, Revised Statutes Supplement, 2000, is amended to read:

71-175.01. The Board of Podiatry may in its discretion authorize the issuance of a license as podiatrist, without examination, to a person who is duly licensed by examination in another state, a territory, or the District of Columbia, in which, under like conditions, reciprocal licensing as a podiatrist, without examination, is granted to a podiatrist duly licensed by examination in this state. The applicant shall produce evidence satisfactory to the board that he or she meets the requirements of subdivisions (1) through (6) of section 71-139. and that he or she holds a certificate from the proper licensing authority from the state, territory, or District of Columbia from whence he or she comes certifying that the applicant is duly licensed, that his or her license has never been suspended or revoked, and that so far as the records of such authority are concerned, the applicant is entitled to its endorsement. An applicant for reciprocal registration coming from any state, any territory, or the District of Columbia may in the discretion of the Board of Podiatry be licensed by reciprocity if his or her individual qualifications meet the Nebraska legal requirements.

Sec. 16. Section 71-179.01, Revised Statutes Supplement, 2000, is amended to read:

71-179.01. Each Nebraska-licensed chiropractor in active practice within the State of Nebraska shall, be required, on or before August 1 of every even-numbered year, to attend not less than four days totaling at least thirty hours biennially of such approved scientific schools, clinics, forums, lectures, or chiropractic educational seminars, as may be approved by the Board of Chiropractic, complete continuing competency activities as required by the Board of Chiropractic pursuant to section 71-161.09 as a prerequisite for his or her licensee's next subsequent license renewal. if at least thirty hours of class instruction is conducted biennially in the State of Nebraska.

Sec. 17. Section 71-185, Revised Statutes Supplement, 2000, is amended to read:

71-185. Every applicant for a license to practice dentistry shall (1) present proof of graduation from an accredited school or college of dentistry and (2) pass an examination prescribed by the Board of Dentistry which shall be elementary and practical in character but sufficiently thorough to test the fitness of the candidate to practice dentistry. Such examination shall include questions on anatomy, physiology, chemistry, dental materials, materia medica, therapeutics, histology, pathology, oral surgery, operative and prosthetic dentistry, dental jurisprudence, and such other subjects as are usually found in the curriculum of a dental college. Demonstrations of the applicant's skill in clinical dentistry shall also be required.

The department shall accept, upon the recommendation of the board and in lieu of the examination, a certificate of examination issued by the National Board of Dental Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fee prescribed in section 71-162 for licenses issued in dentistry without examination based upon a certificate by examination held by the National Board of Dental Examiners of the United States of America.

Standards for relicensure for each Each Nebraska-licensed dentist and dental hygienist in active practice within the State of Nebraska shall, on or before require that such dentist or dental hygienist biennially complete thirty hours of continuing education as prescribed in sections 71-161.09 and 71-161.10 by no later than March 1 of each odd-numbered year, complete continuing competency activities as required by the Board of Dentistry pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.

Sec. 18. Section 71-1,107.25, Revised Statutes Supplement, 2000, is amended to read:

71-1,107.25. There is hereby created the Physician Assistant Committee which shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board. Such matters shall include, but not be limited to, (1) applications for licensure, (2) physician assistant education, (3) scope of practice, (4) proceedings arising pursuant to section 71-1,107.23, (5) physician assistant licensure and supervising physician requirements, and (6) continuing ~~medical education~~ competency. The committee shall be directly responsible to the board. The committee shall be appointed by the State Board of Health and shall be composed of two physician assistants, one supervising physician, one member of the Board of Medicine and Surgery, and one public member. The chairperson of the committee shall be elected by a majority vote of the committee members. All appointments shall be for four-year terms, at staggered intervals. Members shall serve no more than two consecutive terms. Reappointments shall be made by the State Board of Health. The committee shall meet on a regular basis and committee members shall receive reimbursement for time and travel expenditures on the same basis as provided in sections 81-1174 to 81-1177.

Sec. 19. 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~~ Establish continuing competency requirements. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensee may select as an alternative to continuing education;

(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. 20. 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 meet the renewal requirements in effect at the time he or she wishes to restore the license and 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. 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 meet the renewal requirements in effect at the time he or she wishes to regain active status and 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) (a) 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 completed continuing competency activities as required by the board in rules and regulations adopted and promulgated by the department.~~

(b) The department, with the concurrence of the board, may waive continuing education or inservice competency 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. 21. Section 71-1,136.01, Revised Statutes Supplement, 2001, is amended to read:

71-1,136.01. ~~(1) Each Nebraska-licensed optometrist in active practice within the State of Nebraska shall, be required on or before August 1 of each even-numbered year, complete continuing competency activities as required by the Board of Optometry pursuant to section 71-161.09 to attend thirty-two hours biennially, of which sixteen hours shall be earned annually, of such approved scientific schools, clinics, forums, lectures, or optometric educational seminars, as may be announced and approved by the Board of Optometry, as a prerequisite for the licensee's next subsequent license renewal. if at least sixteen hours of such educational program are conducted annually in the State of Nebraska and at least thirty-two hours of such educational program are conducted biennially in the State of Nebraska.~~

~~(2) Each licensed optometrist in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, certify on forms provided by the board that he or she has complied with sections 71-1,133 to 71-1,136 and this section during the preceding two-year period. Such board shall, on or before August 1 of each even-numbered year, report all licensees who have complied with the educational requirements to the department. Licensees who have not complied with such requirements shall not be issued a renewal license unless exempt or excused for good cause shown. The department, on the recommendation of the board, may waive continuing education requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:~~

~~(a) The licensee holds a Nebraska license but is not practicing optometry in Nebraska,~~

~~(b) The licensee has served in the regular armed forces of the United States during part of the twenty-four months immediately preceding the license renewal date,~~

~~(c) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four months immediately preceding any license renewal date, and~~

~~(d) The licensee was first licensed within the twenty-six months immediately preceding the renewal date provided in section 71-110.~~

~~(3) The department, with the consent of the board, may adopt and~~

promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing education requirements.

(4) Each licensee shall provide a sworn affidavit listing continuing education activities in which he or she participated 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 designed by the department. Each licensee shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.

(5) The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars listed on his or her renewal application.

Sec. 22. Section 71-1,144.01, Revised Statutes Supplement, 2000, is amended to read:

71-1,144.01. ~~(1) Commencing in 1984, standards for relicensure for each~~ Each Nebraska-licensed pharmacist in active practice within the State of Nebraska shall require that such pharmacist biennially complete thirty hours of continuing education, as prescribed in sections 71-1,144.01 to 71-1,144.05 complete continuing competency activities as required by the Board of Pharmacy pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.

~~(2) As used in sections 71-1,144.01 to 71-1,144.05, unless the context otherwise requires:~~

(a) Continuing education shall mean study in one or more of the general areas of socioeconomic, administrative, managerial, and legal aspects of health care, the properties and actions of drugs and dosage forms, etiology, characteristics and therapeutics of the disease state, and related topics appropriate to the pharmacist in his or her role which are offered by an approved provider but not part of a formal degree program. The activity shall be a planned learning experience designed to promote the continual development of knowledge, skills, and attitudes on the part of the practitioner;

(b) Approved provider shall mean an institution or organization meeting the same quality standards as those established in the Criteria for Quality of the American Council on Pharmaceutical Education;

(c) Continuing education unit shall mean ten contact hours of participation in an organized continuing education experience, under responsible sponsorship, capable direction, and qualified instruction as defined by the American Council on Pharmaceutical Education;

(d) Board shall mean the Board of Pharmacy; and

(e) Department shall mean the Department of Health and Human Services Regulation and Licensure.

Sec. 23. Section 71-1,155, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,155. No person may practice veterinary medicine and surgery in the state who is not a licensed veterinarian or the holder of a valid temporary license issued by the board. The Nebraska Veterinary Practice Act shall not be construed to prohibit:

(1) An employee of the federal, state, or local government from performing his or her official duties;

(2) A person who is a regular student in a veterinary school from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian during a school vacation period;

(3) Any merchant or manufacturer from selling feed or feeds whether medicated or nonmedicated;

(4) A veterinarian regularly licensed in another state from consulting with a licensed veterinarian in this state;

(5) Any merchant or manufacturer from selling from his or her established place of business medicines, appliances, or other products used in the prevention or treatment of animal diseases or any merchant or manufacturer's representative from conducting educational meetings to explain the use of his or her products or from investigating and advising on problems developing from the use of his or her products;

(6) An owner of livestock or a bona fide farm or ranch employee from performing any act of vaccination, surgery, pregnancy testing, or the administration of drugs in the treatment of domestic animals under his or her custody or ownership nor the exchange of services between persons or bona fide employees who are principally farm or ranch operators or employees in the

performance of these acts;

(7) A member of the faculty of a veterinary school or veterinary science department from performing his or her regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school or veterinary science department or in connection with a continuing education course or seminar competency activity;

(8) Any person from selling or applying any pesticide, insecticide, or herbicide;

(9) Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals;

(10) Any person from treating or in any manner caring for domestic chickens, turkeys, or waterfowl, which are specifically exempted from the Nebraska Veterinary Practice Act; or

(11) Any person from performing dehorning or castrating livestock, not to include equidae.

For purposes of the Nebraska Veterinary Practice Act, castration shall be limited to the removal or destruction of male testes.

Sec. 24. Section 71-1,162, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,162. Each Nebraska-licensed veterinarian in active practice within the State of Nebraska shall, ~~be required~~ on or before April 1 of each even-numbered year, ~~commencing in 1986, to attend thirty-two hours of such approved scientific schools, clinics, forums, lectures, or veterinary educational seminars, as may be announced and approved by the board, complete continuing competency activities as required by the board pursuant to section 71-161.09~~ as a prerequisite for the licensee's next subsequent license renewal. ~~if at least thirty-two hours of such educational program are conducted biennially in the State of Nebraska.~~

Sec. 25. Section 71-1,165, Revised Statutes Supplement, 2000, is amended to read:

71-1,165. (1) To be a veterinary technician in this state, an individual shall meet one of the following requirements:

(a) Be a graduate of an American Veterinary Medical Association approved veterinary technician program and receive a passing score on the national examination for such program as determined by the board;

(b) On July 13, 2000, be an approved animal technician certified under sections 71-1,168 to 71-1,185 as such sections existed prior to such date; or

(c) Have at least five years or more full-time experience working with a veterinarian, be employed by a veterinarian on July 13, 2000, and within three years after such date receive a passing score on the national examination described in subdivision (1)(a) of this section as determined by the board.

(2) ~~To keep the license active, a~~ Each licensed veterinary technician shall earn credit for ~~twenty-four hours of continuing education every three years as approved by the board~~ be required to complete continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.

Sec. 26. Section 71-1,193, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,193. ~~(1) The board may contract with institutions of higher learning, professional organizations, or qualified individuals to provide continuing education programs for audiologists and speech-language pathologists. License fees may be used for such programs. Any funds set aside for the purposes of continuing education may be treated as state funds for the purposes of applying for and accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. The board may also accept continuing education activities from other providers.~~

~~(2) Commencing in 1986, every~~ Each Nebraska-licensed audiologist and speech-language pathologist who is licensed to practice in Nebraska and is in active practice in this state shall be required to complete ~~twenty clock hours of continuing education every two years in accordance with sections 71-161.09 and 71-161.10~~ as a condition for relicensure continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.

Sec. 27. Section 71-1,195.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,195.01. (1) ~~Commencing January 1, 1986, upon~~ Upon application and payment of the registration fee of not less than twenty dollars nor more than one hundred dollars as determined by the department upon the recommendation of the board, the department shall register to practice as a

communication assistant any person who:

- (a) Is a graduate of an accredited high school or its equivalent;
- (b) Has successfully completed all required training pursuant to sections 71-1,195.04 and 71-1,195.05 and any ~~annual continuing education inservice training~~ required pursuant to section 71-1,195.09; and
- (c) Has demonstrated ability to reliably maintain records and provide treatment under the supervision of a licensed audiologist or speech-language pathologist.

(2) Such registration shall be valid for one year from the date of issuance. The fee for renewal of such registration shall be the same as for the initial registration.

(3) The board shall, with the approval of the department, adopt and promulgate rules and regulations necessary to administer sections 71-1,195.01 to 71-1,195.09.

Sec. 28. Section 71-1,206.31, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,206.31. A Each Nebraska-licensed psychologist in active practice within the State of Nebraska shall, in the period since his or her license was issued or last renewed, complete at least twenty-four hours of continuing education courses. Such courses shall be approved by the board and documented as provided in rules and regulations of the board continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.

Sec. 29. Section 71-1,228, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,228. ~~After January 1, 1987, no~~ No person shall engage in the practice of respiratory care unless he or she is licensed for such purpose pursuant to the Uniform Licensing Law. ~~Commencing on June 1, 1988, licenses~~ Licenses shall be renewed on June 1 of each even-numbered year. The department, on the recommendation of the board, shall set the initial license fees and the biennial license renewal fees for respiratory care practitioners pursuant to section 71-162. ~~The department, on the recommendation of the board, shall determine the continuing education requirements for the period from January 1, 1987, to June 1, 1988.~~

Sec. 30. Section 71-1,234, Revised Statutes Supplement, 2000, is amended to read:

71-1,234. ~~(1)~~ Each Nebraska-licensed respiratory care practitioner in active practice within the State of Nebraska shall, ~~be required on or before June 1 of each even-numbered year, commencing in 1988, to attend twenty hours biennially of such approved scientific schools, clinics, forums, lectures, or educational seminars as may be approved by the board~~ complete continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal. if at least twenty hours of such educational program are conducted biennially in the State of Nebraska, except as provided in section 71-1,228.

~~(2)~~ Each licensed respiratory care practitioner in active practice within the State of Nebraska shall, on or before June 1 of each even-numbered year, certify on an affidavit form provided by the board that he or she has complied with this section during the preceding two-year period or the period since the license was last issued. The board shall, on or before June 1 of each even-numbered year, report all licensees who have complied with the educational requirements to the Department of Health and Human Services Regulation and Licensure. Licensees who have not complied with such requirements shall not be issued a renewal license unless exempt or unable to comply due to circumstances beyond their control. Procedures for nonrenewal for failure to submit proof of continuing education shall be identical to those for nonpayment of renewal fees as provided in sections 71-110 and 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply. The department, on the recommendation of the board, may waive all or part of the continuing education requirements for any two-year licensing period, or for the period since the license was last issued, when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

(a) The licensee holds a Nebraska license but is not in the practice of respiratory care in Nebraska;

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

(c) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the

~~twenty-four months immediately preceding any license renewal date, and~~

~~(d) The licensee was first licensed within the twenty-four months immediately preceding the renewal date provided in section 71-110.~~

~~(3) The department, upon the recommendation of the board, may adopt and promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing education requirements.~~

~~(4) Each licensee shall provide a sworn affidavit listing continuing education activities in which he or she participated 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 designed by the department. Each licensee shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.~~

~~(5) The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee selected for audit shall be required to produce documentation of his or her attendance at continuing education seminars listed on his or her renewal application.~~

Sec. 31. Section 71-1,280, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,280. (1) After August 1, 1988, ~~no~~ No person shall engage in the practice of massage therapy or the operation of a massage therapy school or establishment unless he or she obtains a license from the department for that purpose.

(2) Any license issued under the provisions of law in effect immediately prior to August 1, 1988, for either a person to engage in the practice of massage or the operation of a massage school or establishment shall be valid until November 1, 1989, and shall be deemed a license to practice as a massage therapist or to operate a massage therapy school or establishment respectively.

~~(3) Commencing in November 1989 and in In November of each odd-numbered year, thereafter,~~ all license holders shall apply for renewal of such license pursuant to the Uniform Licensing Law.

~~(4) Commencing in 1988, each~~ (3) Each Nebraska-licensed massage therapist in active practice within the State of Nebraska shall, on or before November 1 of each odd-numbered year, be required to complete eighteen hours of continuing education every two years in accordance with sections 71-161.09 and 71-161.10 as a condition for licensure continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.

Sec. 32. Section 71-1,292, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,292. ~~(1) Except as otherwise provided in section 71-1,294,~~ Each licensed medical nutrition therapist shall, in the period since his or her license was issued or last renewed, complete at least thirty hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars appropriate for medical nutrition therapy. The board and the department shall determine the manner in which attendance at all approved courses, clinics, forums, lectures, training programs, or seminars will be monitored, recorded, and submitted to the department. Such rules and regulations shall be adopted and promulgated in the manner and form prescribed by sections continuing competency activities as required by the board pursuant to section 71-161.09 and 71-161.10 as a prerequisite for the licensee's next subsequent license renewal.

~~(2) Each licensed medical nutrition therapist shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements for renewal in accordance with section 71-110.~~

Sec. 33. Section 71-1,294, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,294. ~~(1) Notwithstanding any other provision in the Uniform Licensing Law, the initial medical nutrition therapist's license shall be valid until September 1, 1997. Commencing on September 1, 1997,~~ A medical nutrition therapist's license shall be renewed on September 1 of each odd-numbered year. The department, on the recommendation of the board, shall set the initial license fee and the biennial license renewal fee for medical nutrition therapists pursuant to section 71-162.

~~(2) The department, on the recommendation of the board, shall determine the continuing education requirements for a licensed medical nutrition therapist for the period September 1, 1996, to September 1, 1997.~~

Sec. 34. Section 71-1,315, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,315. (1) Except as otherwise provided in this section, each licensed mental health practitioner shall, in the period since his or her license was issued or last renewed, complete continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal. at least thirty-two hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars.

The board and the department shall determine the manner in which attendance at all approved courses, clinics, forums, lectures, programs, or seminars shall be monitored, recorded, and submitted to the department. Such rules and regulations shall be adopted and promulgated in the manner and form prescribed by sections 71-161.09 and 71-161.10.

(2)(a) Each licensed mental health practitioner shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of this section before his or her license is renewed. Such evidence shall be submitted at the time application for renewal of a license is made.

(b) If the licensed mental health practitioner has satisfied the requirements of this section at the time application for renewal of the license is submitted, his or her license shall be automatically renewed.

(c) If the licensed mental health practitioner has not satisfied the requirements of this section at the time application for renewal of the license is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of this section has been granted or a waiver of the requirements of this section approved, the license shall be automatically revoked in the manner and form provided in section 71-149.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year licensing period when a licensed mental health practitioner submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the licensee:

(a) Holds a Nebraska license but is not engaged in mental health practice in Nebraska;

(b) Has been in the service of the regular armed forces of the United States during any part of the period since his or her license was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a licensed mental health practitioner in the State of Nebraska since his or her license was issued or last renewed.

(4) Any person seeking to reinstate a license which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the license. Any person seeking to reinstate a license which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least sixteen hours of the approved continuing education requirements within one year prior to his or her application for reinstatement.

(5) Each licensed mental health practitioner shall provide a sworn affidavit listing 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 licensed mental health practitioner shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers. The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensed mental health practitioner selected for audit shall be required to produce documentation of his or her attendance at those continuing education courses, clinics, forums, lectures, programs, or seminars listed on his or her renewal application.

(6) The department shall not renew or reinstate a license for any person who has failed to comply with the requirements of this section.

(7) Any continuing education hours accepted for renewal of an associated certificate in social work, professional counseling, or marriage and family therapy shall be credited toward fulfillment of the thirty-two hours of continuing education required for renewal of a license as a mental health practitioner.

Sec. 35. Section 71-1,321, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,321. (1) Except as otherwise provided in this section, each

Each certified social worker and each certified master social worker shall, in the period since his or her certificate was issued or last renewed, complete continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for certificate renewal. ~~at least thirty-two hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars.~~

The board and the department shall determine the manner in which attendance at all approved courses shall be monitored, recorded, and submitted to the department. Such rules and regulations shall be adopted and promulgated in the manner and form prescribed by sections 71-161.09 and 71-161.10.

(2)(a) Each certificate holder shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of this section before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made.

(b) If the certificate holder has satisfied the requirements of this section at the time application for renewal of the certificate is submitted, his or her certificate shall be automatically renewed.

(c) If the certificate holder has not submitted the evidence required by this section at the time application for renewal of the certificate is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of this section has been granted or a waiver of its requirements approved, the certificate shall be automatically revoked in the manner and form provided in section 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year certificate period or for the period of time since the certificate was last issued when a certificate holder submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the certificate holder:

(a) Holds a Nebraska certificate but is not practicing social work in Nebraska;

(b) Has been in the service of the regular armed forces of the United States during any part of the period since his or her certificate was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a certified social worker or as a certified master social worker in the State of Nebraska since his or her certificate was issued or last renewed.

(4) Any person seeking to reinstate a certificate which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the certificate. Any person seeking to reinstate a certificate which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least sixteen hours of approved continuing education credits within one year prior to his or her application for reinstatement.

(5) Each certificate holder shall provide a sworn affidavit listing the 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 certificate renewal application as may be designated by the department. Each certificate holder shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers. The board may select, in a random manner, a sample of the certificate renewal applications for audit of continuing education credits. Each certificate holder selected for audit shall be required to produce documentation of his or her attendance at those continuing education seminars listed on his or her renewal application.

(6) The department shall not renew a certificate or reinstate a certificate for any person who has failed to comply with the requirements of this section.

Sec. 36. Section 71-1,326, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,326. (1) Except as otherwise provided in this section, each Each certified professional counselor shall, in the period since his or her certificate was issued or last renewed, complete continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for certificate renewal. at least thirty-two hours of approved continuing education courses, clinics, forums, lectures, training programs, or

seminars.

The board and the department shall determine the manner in which attendance at all approved courses, clinics, forums, lectures, programs, or seminars shall be monitored, recorded, and submitted to the department. Such rules and regulations shall be adopted and promulgated in the manner and form prescribed by sections 71-161.09 and 71-161.10.

(2)(a) Each certified professional counselor shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of this section before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made.

(b) If the certified professional counselor has satisfied the requirements of this section at the time application for renewal of the certificate is submitted, his or her certificate shall be automatically renewed.

(c) If the certified professional counselor has not submitted the evidence required by this section at the time application for renewal of the certificate is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of this section has been granted or a waiver of the requirements of this section approved, the certificate shall be automatically revoked in the manner and form provided in section 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year certificate period when a certified professional counselor submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the certificate holder:

(a) Holds a Nebraska certificate but is not practicing professional counseling in Nebraska;

(b) Has been in the service of the regular armed forces of the United States during any part of the period since his or her certificate was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a certified professional counselor in the State of Nebraska since his or her certificate was issued or last renewed.

(4) Any person seeking to reinstate a certificate which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the certificate. Any person seeking to reinstate a certificate which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least sixteen hours of the approved continuing education requirements within one year prior to his or her application for reinstatement.

(5) Each certified professional counselor shall provide a sworn affidavit listing 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 certificate renewal application as may be designated by the department. Each certified professional counselor shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers. The board may biennially select, in a random manner, a sample of the certificate renewal applications for audit of continuing education credits. Each certified professional counselor selected for audit shall be required to produce documentation of his or her attendance at those continuing education courses, clinics, forums, lectures, programs, or seminars listed on his or her renewal application.

(6) The department shall not renew a certificate or reinstate a certificate for any person who has failed to comply with the requirements of this section.

Sec. 37. Section 71-1,330, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,330. (1) Except as otherwise provided in this section, each Each certified marriage and family therapist shall, in the period since his or her certificate was issued or last renewed, complete continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for certificate renewal. at least thirty-two hours of approved continuing education courses, clinics, forums, lectures, training programs, or seminars. The board and the department shall determine the manner in which

attendance at all approved courses shall be monitored, recorded, and submitted for the department. Such rules and regulations shall be adopted and promulgated in the manner and by the form prescribed by sections 71-161.09 and 71-161.10.

(2) Each certificate holder shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of subsection (1) of this section before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made. If the certificate holder has satisfied the requirements of such subsection at the time that an application for renewal of the certificate is submitted, his or her certificate shall be automatically renewed. If the certificate holder has not submitted the evidence required by this section at the time application for renewal of the certificate is submitted, the department shall notify him or her of such in the manner prescribed by section 71-110. Unless an extension of time to meet the requirements of such subsection has been granted or a waiver of its requirements approved, the certificate shall be automatically revoked in the manner and form provided in section 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply.

(3) The department, on the recommendation of the board, may waive the continuing education requirements, in part or in whole, for any two-year certificate period or for the period of time since the certificate was last issued when a certificate holder submits documentation that circumstances beyond his or her control prevented him or her from completing such requirements. Such circumstances shall include that the certificate holder:

(a) Holds a Nebraska certificate but is not practicing marriage and family therapy in Nebraska;

(b) Has been in the service of the regular Armed Forces of the United States during any part of the period since his or her certificate was issued or last renewed; or

(c) Is a legal resident of another state, territory, or the District of Columbia and has not practiced as a certified marriage and family therapist in the State of Nebraska since his or her certificate was issued or last renewed.

(4) Any person seeking to reinstate a certificate which has lapsed within the preceding year shall comply with the continuing education requirements for regular renewal of the certificate. Any person seeking to reinstate a certificate which has lapsed one year or longer prior to the time of seeking reinstatement shall present satisfactory evidence of having completed at least sixteen hours of approved continuing education credits within one year prior to his or her application for reinstatement.

(5) Each certificate holder shall provide a sworn affidavit listing the 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 certificate renewal application as may be designated by the department. Each certificate holder shall be responsible for maintaining in his or her personal files such certificates as records of credit from continuing education activities received from approved providers. The board may select, in a random manner, a sample of the certificate renewal applications for audit of continuing education credits. Each certificate holder selected for audit shall be required to produce documentation of his or her attendance at those continuing education seminars listed on his or her renewal application.

(6) The department shall not renew or reinstate a certificate for any person who has failed to comply with the requirements of this section.

Sec. 38. Section 71-341, Revised Statutes Supplement, 2000, is amended to read:

71-341. The Legislature finds that: (1) A great number of Nebraska citizens regularly demand and receive cosmetology, nail technology, and electrology services; (2) the practices of cosmetology, nail technology, and electrology involve the use of implements and chemicals that, if used or applied improperly, can be hazardous to human health and safety; (3) inadequate sanitation in the practice of cosmetology, nail technology, or electrology can encourage the spread of contagious diseases, infections, and infestations to the detriment of the health and safety of the public; (4) the knowledge of proper sanitation techniques and the proper use of implements and chemicals can best be gained by rigorous and extensive training in cosmetology, nail technology, and electrology at institutions operated exclusively for such purposes; (5) the need of the public to be served by well-trained persons and the need of cosmetology, nail technology, and electrology students to receive an appropriate education can best be met

through the enactment of standards for the approval of schools of cosmetology, nail technology schools, and schools of electrology; (6) the effectiveness of cosmetology, nail technology, or electrology training and the competency to practice can best be demonstrated by the passage of an impartially administered examination before a person is permitted to practice; (7) ~~continued~~ continuing competency can best be demonstrated by participation in ~~formal programs of continuing education~~ competency activities; (8) the establishment and maintenance of a safe environment in places where cosmetology, nail technology, or electrology is practiced can best be ensured through the establishment of operating and sanitary requirements for the safe and sanitary operation of such places; (9) the protection of the health and safety of its citizens is a principal concern and duty of the State of Nebraska; and (10) the reasonable regulation and limitation of a field of practice or occupation for the purpose of protecting the health and safety of the public is a legitimate and justified exercise of the police power of the state.

Sec. 39. Section 71-377, Revised Statutes Supplement, 2000, is amended to read:

71-377. The board shall:

(1) Review all reports of alleged violations investigated by the department and recommend action as authorized under the Nebraska Cosmetology Act;

(2) Approve all licensing examinations used;

(3) Serve as consultant to the department in all matters relating to cosmetology, nail technology, or electrology and to the enforcement and implementation of the act; ~~Nebraska Cosmetology Act~~; and

(4) Recommend applicants to the department for the professional level position which will be responsible for the daily administration of the ~~Nebraska Cosmetology Act~~ act; and

(5) Establish continuing competency requirements for persons licensed under the act for adoption and promulgation by the department in rules and regulations. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensee may select as an alternative to continuing education.

Sec. 40. Section 71-382, Revised Statutes Supplement, 2000, is amended to read:

71-382. Fees shall be set by the board within the dollar ranges provided in this section.

Fee	Initial	Biennial Renewal	Late Renewal Penalty
<b>Practitioner Licenses:</b>			
Cosmetologist license	20-300	16-500	25-75
Nail technician license	10-300	16-500	25-75
Esthetician license	10-300	16-500	25-75
Electrologist license	10-300	16-500	25-75
Electrology instructor	10-300	16-500	25-75
Nail technology instructor	10-300	16-500	25-75
Instructor	10-300	16-500	25-75
<b>Practitioner Registrations:</b>			
Guest artist registration	10-300	--	--
Temporary practitioner registration	5-300	--	--
Nail technology temporary practitioner registration	5-300	--	--
Cosmetician registration	5-300	--	--
Inactive renewal	--	16-500	25-75
<b>Establishments:</b>			
Cosmetology salon	50-300	20-400	10-35
Nail technology salon	50-300	20-400	10-35
Skin care salon	40-300	20-400	10-35
Cosmetic establishment	20-300	10-400	5-35
Electrology establishment	40-300	25-400	10-35
Apprentice training salon	100-300	25-400	10-35
School of cosmetology	1000-3000	200-750	25-250
School of electrolysis	500-1000	200-750	25-250
Nail technology school	500-1500	100-375	25-125
Satellite classroom	250-750	100-400	25-125
<b>Other:</b>			
Transfer school location			

within county	250-500	--	--
Duplicate license or registration	5-20	--	--
Certification of grades or hours to another state	5-20	--	--
<del>Continuing education program fee</del>	<del>10-100</del>	---	---
<u>Continuing competency activity fee</u>	<u>10-100</u>	<u>--</u>	<u>--</u>
Repeat inspection	30-300	--	--
Home services permit	10-300	20-400	10-35

Sec. 41. Section 71-397, Reissue Revised Statutes of Nebraska, is amended to read:

71-397. (1) Each license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal every two years. All cosmetology and instructor's licenses shall expire and be subject to renewal on December 31 of each even-numbered year. All esthetician's licenses shall expire and be subject to renewal on September 30 of each even-numbered year. All electrologist's and electrology instructor's licenses ~~issued on or before July 31, 1997,~~ shall expire and be subject to renewal ~~on that date and on July 31 of each odd-numbered year.~~ ~~thereafter.~~

(2) At least thirty days before the expiration of a license, the department shall notify each licensee by a letter addressed to the licensee at the last address contained in the department's records. Any licensee who fails to pay the renewal fee or file a complete application for renewal on or before the date of expiration of the license shall be given a second notice in the same manner, advising him or her that:

(a) The renewal fee has not been received or the application is incomplete;

(b) The license has expired;

(c) The department will suspend action for thirty days following the date of expiration;

(d) If the renewal fee and the additional late renewal fee of twenty-five dollars are or a complete application is received within such thirty-day period, no order of revocation will be entered;

(e) If the inactive renewal fee is received within such thirty-day period, the license will be placed on inactive status and no order of revocation will be entered; and

(f) Upon failure to receive the fee or complete application under either subdivision (d) or (e) of this subsection within such thirty-day period, an order of revocation will be entered.

(3) Any licensee who allows his or her license to expire by failure to renew according to this section may petition the department for reinstatement. Reinstatement may be granted upon the recommendation of the board and upon receipt by the department of a complete application for reinstatement accompanied by all regular renewal fees and the late renewal fee. If application for reinstatement is made more than thirty days after expiration and not more than one year from the date of revocation, the late renewal fee shall be fifty dollars. If application for reinstatement is made more than one year after revocation, the late renewal fee shall be seventy-five dollars. If an electrology instructor's license has been expired or has been on inactive status for five years or more, such electrology instructor shall retake and pass the electrology instructor's examination before such license is reinstated.

(4) No license may be renewed or reinstated unless the licensee provides evidence of compliance with the continuing education provisions ~~contained in sections 71-3,107 to 71-3,118~~ competency activities as required by the board pursuant to section 71-377.

Sec. 42. Section 71-3,107, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,107. ~~After January 1, 1989, no~~ No licensed practitioner shall renew his or her license to practice unless he or she has, ~~obtained,~~ within the biennium immediately preceding the date of expiration of the license, completed continuing competency activities as required by the board pursuant to section 71-377. ~~the number of hours of approved continuing education required for his or her type of license as designated in the Nebraska Cosmetology Act and complied with all other requirements of such act.~~ Continuing education shall be measured in terms of hours of participation in an approved continuing education program, and each fifty minutes of participation shall constitute one hour.

~~The number of hours of approved continuing education required shall be as follows:~~

- (1) For a license to practice cosmetology, sixteen hours,
- (2) For a license to practice as an instructor, sixteen hours,
- (3) For a license to practice as an esthetician, eight hours,
- (4) For a license to practice as an electrologist, eight hours, and
- (5) For a license to practice as an electrology instructor, twenty

hours.

Sec. 43. Section 71-3,108, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,108. Each licensee shall submit with his or her application for license renewal a signed and notarized affidavit affirming that the licensee has obtained the required hours within the preceding biennium and listing the approved programs in which the licensee participated in order to obtain such hours. The board may require further evidence to substantiate the licensee's statement at its discretion documentation of continuing competency activities as required by the board pursuant to section 71-377. The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits, except that such information shall be requested by the board within three years of the date on which the program was held competency activities. Each licensee selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars competency activities listed on his or her renewal application.

Sec. 44. Section 71-3,112, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,112. Each individual licensee shall be responsible for maintaining the records of his or her continuing education competency activities. Each provider of an approved continuing education program shall maintain such records as are necessary to establish the program's approval and the persons who attended for a period of three years.

Sec. 45. Section 71-3,115, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,115. A licensee who fails to earn the required number of continuing education hours in a biennium, and who is not exempted from such requirement by the Nebraska Cosmetology Act, complete continuing competency activities as required by the board pursuant to section 71-377 may request that his or her license be placed on inactive status upon its expiration. Such a request shall be granted upon payment of the required fee. No person shall practice in any manner under an inactive license. An inactive license may be restored to active status at such time as the licensee so petitions the department and presents evidence that he or she has completed continuing competency activities as required by the board. the number of approved continuing education hours required as follows:

(1) For a license inactive less than two years, the amount of continuing education hours required for regular renewal,

(2) For a license inactive at least two years, but less than six years, two times the amount of continuing education required for regular renewal,

(3) For a license inactive at least six years, but less than ten years, three times the amount of continuing education hours required for regular renewal, and

(4) For a license inactive ten years or more, four times the amount of continuing education required for regular license renewal.

Hours of continuing education earned for the purpose of restoring an inactive license shall not be counted toward fulfillment of the renewal requirement for the next biennium.

Sec. 46. Section 71-3,117, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,117. The following classes of persons shall have a limited exemption from the continuing education competency requirements of the Nebraska Cosmetology Act established by the board pursuant to section 71-377:

(1) Any licensee submitting proof that he or she was suffering from a serious or disabling illness or disability that prevented him or her from completing the continuing education competency requirements shall be exempt for the biennium if, by the renewal date, he or she is able to practice effectively and to attend continuing education seminars competency activities. Any licensee who remains unable to practice effectively at his or her regularly scheduled renewal date shall be placed on inactive status. A physician's statement shall be submitted in support of any request for a continuing education competency exemption based on an illness or disability;

(2) Any licensee submitting proof of service in the regular armed forces of the United States during any part of the immediately preceding biennium shall be exempt for that biennium;

(3) Any person receiving an initial license in Nebraska during the second year of the biennium shall be exempt from the continuing ~~education~~ competency requirement for that biennium only;

(4) Any licensee submitting proof that he or she has not lived in Nebraska at any time during the six months immediately preceding the date of license renewal and who has not worked in Nebraska at any time during such period shall be exempt for that biennium and shall be placed on inactive status;

(5) An instructor who meets the continuing ~~education~~ competency requirements for the instructor's license shall be exempt from meeting the continuing ~~education~~ competency requirements for his or her cosmetologist license for that biennium; and

(6) An electrology instructor who meets the continuing ~~education~~ competency requirements for the electrology instructor's license shall be exempt from meeting the continuing ~~education~~ competency requirements for his or her electrologist license for that biennium.

Sec. 47. Section 71-3,179, Revised Statutes Supplement, 2000, is amended to read:

71-3,179. The department, with the assistance of the board, shall adopt and promulgate all rules, regulations, and guidelines necessary for the administration of the Nebraska Cosmetology Act. In particular, the department shall adopt and promulgate the following rules and regulations:

(1) Minimum standards governing the licensure, ~~relicensure~~ license renewal, and discipline of licensees, and license reinstatement;

(2) Operation of schools of cosmetology, nail technology schools, schools of electrology, and apprentice salons, including standards and requirements governing application, curriculum, course of study, hours and credits, staff and faculty, student and nail technology student admission and registration, student instructor, nail technology student instructor, and apprentice admission and registration, instruction and supervision, textbooks, transfers, examinations, grading and evaluation, graduation requirements, records, reporting requirements, sanitation, attire, school and salon rules and policies, smoking, subject content, lesson plans, methods of counting and recording hours and credits, library facilities, space requirements, teaching equipment and apparatus, supplies, organization and administration, transfer of location, closing a school, change of ownership or location, scheduling of courses, class size, ratio of instructors or nail technology instructors to students or nail technology students, clinical experience requirements and locations, inspections, license renewal procedures and requirements, and any other related areas;

(3) Minimum standards governing the licensure, ~~relicensure~~ license renewal, discipline of licensees, license reinstatement, and operation of satellite classrooms, including movement of students among satellite classrooms and home schools, location of records, ratio of students to instructors, inspections, reporting requirements, and any other related areas;

(4) Minimum standards governing the licensure, ~~relicensure~~ license renewal, discipline of licensees, license reinstatement, and operation of cosmetology salons, nail technology salons, and skin care salons, including standards and requirements governing space, facilities, equipment, hours of operation, cleanliness and sanitation, smoking, laundry, storage facilities, instruments, implements, materials and supplies, methods and particular aspects of sanitizing, pets, toilet facilities, water, client files, employment and supervision of temporary practitioners, practices permitted, application, inspection, sale or change of ownership, closing a salon, records, reporting requirements, license renewal standards and procedures, and any other related areas;

(5) Situations constituting a conflict of interest for board members and procedures for dealing with such situations;

(6) Procedures for the conduct and grading of examinations and performance standards for examinations;

(7) Minimum standards governing the licensure, ~~relicensure~~ license renewal, discipline of licensees, license reinstatement, and operation of cosmetic establishments including type and amount of instruction provided to cosmeticians or electrologists, safety and sanitary procedures and standards, application, inspection, reporting requirements, license renewal standards and procedures, and any other related areas;

(8) Minimum standards governing the registration, expiration, discipline, and practice of cosmeticians, nail technicians, electrologists, guest artists, nail technology students, nail technology student instructors, students, apprentices, student instructors, nail technology temporary practitioners, and temporary practitioners, including application, supervision, type of training received, locations of practice, reporting

requirements, grounds for discipline, and any other related areas;

(9) ~~Criteria and standards for the approval and classification of continuing education programs, including reviewers, material required of applicants, fees, qualifications of presenters, content of programs, verification of programs as approved, verification of hours as reported by licensees, application, nonattendance programs, exemptions, and any other related areas~~ Continuing competency requirements for persons licensed under the Nebraska Cosmetology Act as approved by the board under section 71-377;

(10) Criteria and standards to be used in the conduct of inspections and procedures to be used in the conduct of inspections and investigations, including rating systems, level of achievement necessary to receive a passing grade, conduct of inspections and investigations, and any other related areas;

(11) Minimum standards governing the granting, discipline of, and renewal of home services permits, nail technology home services permits, or home services permits for electrology and the provision of home services; and

(12) Acts constituting unprofessional conduct on the part of licensed and registered practitioners and licensed establishments and nail technology establishments.

Sec. 48. Section 71-3,196, Revised Statutes Supplement, 2000, is amended to read:

71-3,196. (1) Each nail technician license or nail technology instructor license issued under the Nebraska Cosmetology Act shall expire and be subject to renewal every two years. All nail technician and nail technology instructor licenses shall expire and be subject to renewal on December 31 of each odd-numbered year.

(2) At least thirty days before the expiration date, the department shall notify each licensee by a letter addressed to the licensee at the last address contained in the department's records. Any licensee who fails to pay the renewal fee or file a complete application for renewal on or before the date of expiration of the license shall be given a second notice in the same manner, advising him or her that:

(a) The renewal fee has not been received or the application is incomplete;

(b) The license has expired;

(c) The department will suspend action for thirty days following the date of expiration;

(d) If the fees are or a complete application is received within such thirty-day period, no order of revocation will be entered;

(e) If the inactive renewal fee is received within such thirty-day period, the license will be placed on inactive status and no order of revocation will be entered; and

(f) Upon failure to receive the fee or complete application under either subdivision (d) or (e) of this subsection within such thirty-day period, an order of revocation will be entered.

(3) Any licensee who allows his or her license to expire by failure to renew according to this section may petition the department for reinstatement. Reinstatement may be granted upon the recommendation of the board and upon receipt by the department of a complete application for reinstatement accompanied by all regular renewal fees and the late renewal fee.

(4) No license may be renewed or reinstated unless the licensee provides evidence of compliance with the continuing education provisions contained in ~~section 71-3,197~~ completes continuing competency activities as required by the board pursuant to section 71-377.

Sec. 49. Section 71-3,197, Revised Statutes Supplement, 2000, is amended to read:

71-3,197. ~~On and after January 1, 2000, a A licensed nail technician or nail technology instructor shall not renew his or her license to practice unless he or she has, obtained, within the biennium immediately preceding the date of expiration of the license, completed continuing competency activities as required by the board pursuant to section 71-377. the number of hours of approved continuing education required for his or her type of license as designated in the Nebraska Cosmetology Act and complied with all other requirements of the act. Continuing education shall be measured in terms of hours of participation in an approved continuing education program, and each fifty minutes of participation shall constitute one hour.~~

~~The number of hours of approved continuing education required shall be as follows:~~

~~(1) For a license to practice nail technology, eight hours, and~~

~~(2) For a license to practice as a nail technology instructor, twelve hours.~~

Sec. 50. Section 71-3,198, Revised Statutes Supplement, 2000, is amended to read:

71-3,198. Each licensed nail technician and licensed nail technology instructor shall submit with his or her application for license renewal a signed and notarized affidavit affirming that the licensee has obtained the required hours of continuing education within the preceding biennium and listing the approved programs in which the licensee participated in order to obtain such hours. The board may require further evidence to substantiate the licensee's statement at its discretion documentation of continuing competency activities as required by the board pursuant to section 71-377. The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits, except that such information shall be requested by the board within three years after the date on which the program was held competency activities. Each licensee selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars competency activities listed on his or her renewal application.

Sec. 51. Section 71-3,202, Revised Statutes Supplement, 2000, is amended to read:

71-3,202. Each nail technician and nail technology instructor shall be responsible for maintaining the records of his or her continuing education competency activities. Each provider of an approved continuing education program shall maintain such records as are necessary to establish the program's approval and the persons who attended for a period of three years.

Sec. 52. Section 71-3,205, Revised Statutes Supplement, 2000, is amended to read:

71-3,205. A nail technician or nail technology instructor who fails to earn the required number of continuing education hours in a biennium, and who is not exempted from such requirement by the Nebraska Cosmetology Act, complete continuing competency activities as required by the board pursuant to section 71-377 may request that his or her license be placed on inactive status upon its expiration. Such a request shall be granted upon payment of the required fee. No person shall practice in any manner under an inactive or revoked license. An inactive license may be restored to active status at such time as the licensee so petitions the department and presents evidence that he or she has completed the number of approved continuing education hours competency activities as required by the board. as follows:

(1) For a license inactive or revoked for less than two years, the amount of continuing education hours required for regular renewal;

(2) For a license inactive or revoked for at least two years, but less than six years, two times the amount of continuing education hours required for regular renewal;

(3) For a license inactive or revoked for at least six years, but less than ten years, three times the amount of continuing education hours required for regular renewal; and

(4) For a license inactive or revoked for ten years or more, four times the amount of continuing education hours required for regular renewal.

Hours of continuing education earned for the purpose of restoring an inactive or revoked license shall not be counted toward fulfillment of the renewal requirement for the next biennium.

Sec. 53. Section 71-3,206, Revised Statutes Supplement, 2000, is amended to read:

71-3,206. The following classes of persons have a limited exemption from the nail technology continuing education competency requirements of the Nebraska Cosmetology Act established by the board pursuant to section 71-377:

(1) Any licensee submitting proof that he or she was suffering from a serious or disabling illness or disability that prevented him or her from completing the continuing education competency requirements shall be exempt for the biennium if, by the renewal date, he or she is able to practice effectively and to attend continuing education seminars competency activities. Any licensee who remains unable to practice effectively at his or her regularly scheduled renewal date shall be placed on inactive status. A physician's statement shall be submitted in support of any request for a continuing education competency exemption based on an illness or disability;

(2) Any licensee submitting proof of service in the regular armed forces of the United States during any part of the immediately preceding biennium shall be exempt for that biennium;

(3) Any person receiving an initial nail technology license in Nebraska during the second year of the biennium shall be exempt for that biennium only;

(4) Any licensee submitting proof that he or she has not lived in Nebraska at any time during the twenty-four months immediately preceding the

date of license renewal and who has not provided nail technology services in Nebraska at any time during such period shall be exempt for that biennium; and

(5) A nail technology instructor who meets the continuing ~~education~~ competency requirements for the nail technology instructor's license shall be exempt from meeting the continuing ~~education~~ competency requirements for his or her nail technician license for that biennium.

Sec. 54. Section 71-1326, Reissue Revised Statutes of Nebraska, is amended to read:

71-1326. The department, upon recommendation of the board, may adopt and promulgate such rules and regulations as may be reasonable and proper for the purpose of carrying into effect sections 71-1301 to ~~71-1306 and 71-1326~~ to 71-1354, including rules and regulations for licensure, license renewal, discipline of licenses, and reinstatement of licenses.

Sec. 55. Section 71-1354, Reissue Revised Statutes of Nebraska, is amended to read:

71-1354. The board shall establish continuing competency requirements for persons licensed under sections 71-1301 to 71-1354 for adoption and promulgation by the department in rules and regulations. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensee may select as an alternative to continuing education. Each licensee shall submit, with his or her application for license renewal or reinstatement, documentation that he or she has completed continuing competency activities as required by the board. The department shall not renew or reinstate a license to any person who has failed to complete such requirements. The board shall adopt guidelines for the effective administration of sections 71-1347 to 71-1353. The department shall adopt and promulgate such rules and regulations as are necessary for the effective administration of sections 71-1347 to 71-1353.

Sec. 56. Section 71-1718.02, Revised Statutes Supplement, 2000, is amended to read:

71-1718.02. The Board of Advanced Practice Registered Nurses shall:

(1) Establish standards for integrated practice agreements between advanced practice registered nurses and collaborating physicians;

(2) Monitor the scope of practice by advanced practice registered nurses and advise the Board of Nursing in matters pertaining to the scope of practice of advanced practice registered nurses; and

(3) ~~Adopt, promulgate, and revise, with the approval of the department and the Board of Nursing, rules and regulations as may be necessary to carry~~ Approve rules and regulations with the Board of Nursing to implement the Advanced Practice Registered Nurse Act for adoption and promulgation by the department. into effect. Such rules and regulations shall include: (a) Approved certification organizations and approved certification programs; ~~continued competence~~ (b) continuing competency requirements. The requirements may include, but not be limited to, continuing education, continuing practice, national recertification, a reentry program, peer review including patient outcomes, supervised practice, examination, or other continuing competency activities listed in section 71-161.09; (c) grounds for discipline; (d) licensure, license renewal, and license reinstatement requirements; (e) fees; (f) professional liability insurance; and (g) conflict of interest for board members.

Sec. 57. Section 71-1722, Revised Statutes Supplement, 2000, is amended to read:

71-1722. Requirements for licensure as an advanced practice registered nurse shall be the following:

(1) A license as a registered nurse in the State of Nebraska;

(2) A completed application which includes the applicant's social security number;

(3) A licensure fee;

(4) Evidence of having successfully completed an approved advanced practice registered nurse program;

(5) Evidence of having successfully completed thirty contact hours of education in pharmacotherapeutics;

(6) Submission of proof of having passed an examination pertaining to the specific advanced practice registered nurse role in nursing adopted or approved by the boards with the approval of the department. Such examination may include any recognized national credentialing examination for advanced practice registered nurses conducted by an approved certifying body which administers an approved certification program; and

(7) If more than five years have elapsed since the completion of the advanced practice registered nurse program or since the applicant has

practiced in the specific advanced practice registered nurse role, the applicant shall meet the requirements in subdivisions (1) through (6) of this section and provide evidence of continuing ~~clinical competence, competency~~ as may be determined required by the boards, by a means identified in section 71-1724.02 pursuant to section 71-1718.02.

Sec. 58. Section 71-1724, Revised Statutes Supplement, 2000, is amended to read:

71-1724. Renewal of a license as an advanced practice registered nurse shall be at the same time and in the same manner as renewal of a license as a registered nurse and shall require:

(1) A license as a registered nurse in the State of Nebraska;  
 (2) Documentation of ~~continued clinical competence pursuant to section 71-1724.02~~ continuing competency upon completion of continuing competency activities established by the boards pursuant to section 71-1718.02;

(3) ~~Documentation of forty contact hours of continuing education in the clinical specialty area within the previous two years, ten hours of which shall be in pharmacotherapeutics. These continuing education hours shall fulfill the requirements of continuing education required for registered nurse renewal;~~

(4) Documentation of a minimum of two thousand eighty hours of practice as an advanced practice registered nurse within the five years immediately preceding renewal. These practice hours shall fulfill the requirements of the practice hours required for registered nurse renewal;

~~(5) (4) Proof of current certification in the specific advanced practice clinical specialty area by an approved certification program; and~~

~~(6) (5) Payment of a biennial licensure license renewal fee.~~

Sec. 59. Section 71-1724.01, Revised Statutes Supplement, 2000, is amended to read:

71-1724.01. The department may grant a temporary permit as an advanced practice registered nurse upon application:

(1) To graduates of an approved advanced practice registered nurse program pending results of the first credentialing examination following graduation;

(2) For one hundred twenty days to advanced practice registered nurses lawfully authorized to practice in another state pending completion of the application for a Nebraska license; and

(3) To applicants for purposes of a reentry program or supervised practice as ~~provided in subsection (2) of section 71-1724.02~~ part of continuing competency activities established by the boards pursuant to section 71-1718.02.

Sec. 60. Section 71-1724.02, Revised Statutes Supplement, 2000, is amended to read:

71-1724.02. ~~(1) Continued competence~~ Continuing competency requirements established by the boards pursuant to section 71-1718.02 shall apply to:

~~(a) (1) A licensee seeking to renew an advanced practice registered nurse license;~~

~~(b) (2) A licensee seeking to reinstate from lapsed status an advanced practice registered nurse license;~~

~~(c) (3) An applicant for licensure as an advanced practice registered nurse who has been authorized by another state to practice in an advanced role; and~~

~~(d) (4) An applicant for licensure as an advanced practice registered nurse who has not practiced in that role during the five years immediately preceding application.~~

~~(2) Continued competence may be demonstrated by continuing education, continuing practice, national recertification, a reentry program, peer review including patient care outcomes, supervised practice, or examination approved by the board.~~

Sec. 61. Section 71-1730, Revised Statutes Supplement, 2000, is amended to read:

71-1730. In order to obtain a certificate from the department as a certified registered nurse anesthetist an applicant shall:

(1) Hold a license as a registered nurse in the State of Nebraska;

(2) Submit a completed application verified by oath which includes the applicant's social security number;

(3) Pay a licensure fee not in excess of fifty dollars;

(4) Submit evidence of successful completion of a course of study in anesthesia in a school of nurse anesthesia accredited or approved by or under the auspices of the department or the Council on Accreditation of Nurse Anesthesia and Educational Programs; and

(5) Take and successfully pass a certifying examination approved by the department after prior approval of such examination by the Board of Nursing and Board of Medicine and Surgery. Such examination may include (a) the National Qualifying Examination for Certified Registered Nurse Anesthetists or (b) any other approved recognized national qualifying examination for nurse anesthetists.

If more than five years have elapsed since the applicant completed the nurse anesthetist program or since the applicant has practiced as a nurse anesthetist, he or she shall meet the requirements of subdivisions (1) through (5) of this section and shall provide evidence of ~~continued competence by such means as~~ continuing competency as determined by the Board of Nursing and Board of Medicine and Surgery determine, including, but not limited to, a reentry program, supervised practice, ~~or~~ examination, or one or more of the continuing competency activities listed in section 71-161.09.

Sec. 62. Section 71-1735, Revised Statutes Supplement, 2000, is amended to read:

71-1735. (1) The procedure for biennial ~~recertification~~ certification renewal as a certified registered nurse anesthetist shall be at the same time and in the same manner as renewal of a license as a registered nurse and shall require:

(a) A license as a registered nurse in the State of Nebraska;

(b) Documentation of ~~continued clinical competence, if deemed necessary by the Board of Nursing and Board of Medicine and Surgery, either by reference, peer review, or examination~~ continuing competency as required by the Board of Nursing and the Board of Medicine and Surgery in rules and regulations approved by the boards and adopted and promulgated by the department. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a person may select as an alternative to continuing education; and

(c) Payment of a biennial ~~recertification~~ certification renewal fee not in excess of thirty dollars.

(2) Violations of the Advanced Practice Registered Nurse Act shall be dealt with in the manner prescribed in sections 71-1725, 71-1726, and 71-1737.

(3) All fees received pursuant to sections 71-1729 to 71-1737 shall be processed in the same manner as fees received pursuant to the Nurse Practice Act.

Sec. 63. Section 71-1755, Revised Statutes Supplement, 2000, is amended to read:

71-1755. (1) An applicant for certification as a nurse midwife shall submit to the boards a written application, which includes the applicant's social security number, and such evidence as the boards shall require showing that the applicant is currently licensed as a registered nurse by the state, has successfully completed an approved certified nurse midwifery education program, and has passed a nationally recognized nurse midwifery examination adopted by the boards.

(2) The department may, with the approval of the boards, grant temporary certification as a nurse midwife upon application (a) to graduates of an approved nurse midwifery program pending results of the first certifying examination following graduation and (b) for one hundred twenty days to nurse midwives currently licensed in another state pending completion of the application for Nebraska certification. A temporary permit issued pursuant to this section may be extended for up to one year with the approval of the boards.

(3) The boards shall adopt an examination to be used pursuant to subsection (1) of this section.

(4) If more than five years have elapsed since the completion of the nurse midwifery program or since the applicant has practiced as a nurse midwife, the applicant shall meet the requirements in subsection (1) of this section and provide evidence of continuing ~~clinical competence~~ competency, as may be determined by the boards, either by means of a reentry program, references, supervised practice, ~~or~~ examination, or one or more of the continuing competency activities listed in section 71-161.09.

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

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

(b) Request that a certificate which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial

certification and an additional fee of one-fourth of the biennial fee.

Sec. 64. 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 continuing competency, if deemed necessary by the boards, either by reference, peer review, or examination, or one or more of the continuing competency activities listed in section 71-161.09, as established by the boards in rules and regulations approved by the boards and adopted and promulgated by the department.

(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. 65. Section 71-1779, Reissue Revised Statutes of Nebraska, is amended to read:

71-1779. Certificates for licensed practical nurses-certified shall be renewed as provided for licenses for licensed practical nurses in section 71-1,132.20. To obtain renewal of a certificate, a licensed practical nurse-certified shall complete five hours of continuing education courses approved by the board and submit proof of such in the manner provided by section continuing competency activities as required by the board under section 71-1788 and provide documentation of such activities as provided in section 71-161.10. Such continuing education courses competency activities shall relate to intravenous therapy or nasogastric tube insertion and may be included in the continuing education competency activities required under the Nurse Practice Act for renewal of a license as a licensed practical nurse.

Sec. 66. Section 71-1782, Reissue Revised Statutes of Nebraska, is amended to read:

71-1782. (1) The department may deny, refuse renewal of, revoke, suspend, or otherwise take disciplinary measures against a certificate to practice as a licensed practical nurse-certified upon the grounds provided in sections 71-147 to 71-161.19 or for violation of the Licensed Practical Nurse-Certified Act or the rules and regulations adopted and promulgated under the act in the manner provided in such sections. The department with the advice approval of the board shall adopt and promulgate rules and regulations governing the procedures for denial of renewal of the certificate for failure to meet the continuing education competency requirements.

(2) Any person practicing as a licensed practical nurse-certified who is not certified as such by the department and who possesses a current license to engage in any health profession for which a license is issued by the department may have such license denied, refused renewal, suspended, or revoked or have other disciplinary action taken against him or her by the department pursuant to the provisions of the Uniform Licensing Law relating to such profession.

(3) Any person who violates the Licensed Practical Nurse-Certified Act may have his or her license to practice as a licensed practical nurse denied, refused renewal, suspended, or revoked or have other disciplinary action taken against him or her by the department pursuant to the provisions of the Uniform Licensing Law.

Sec. 67. Section 71-1788, Reissue Revised Statutes of Nebraska, is amended to read:

71-1788. The board ~~department~~ with the approval of the ~~department~~ board shall adopt and promulgate rules and regulations to carry out the Licensed Practical Nurse-Certified Act. The board shall:

(1) Approve an examination;  
 (2) Establish the passing score for the examination;  
 (3) Establish procedures for examination security; ~~and~~  
 (4) Establish the number of times the applicant may fail the examination before he or she must retake the certification course; ~~and~~  
 (5) Establish continuing competency requirements for persons licensed under the act for adoption and promulgation by the department.

Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensed person may select as an alternative to continuing education.

Sec. 68. Section 71-2802, Revised Statutes Supplement, 2001, is amended to read:

71-2802. Sections 71-2801 to 71-2823 do not include the following classes of persons:

(1) Licensed physicians and surgeons, chiroprodists, dentists, chiropractors, osteopathic physicians, or massage therapists, who are exclusively engaged in the practice of their respective professions;

(2) Physicians and surgeons of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state;

(3) Physical therapists or physical therapist assistants licensed or certified in another jurisdiction who are participating in continuing educational programs competency activities; or

(4) Students performing physical therapy services within the scope of an approved educational program and under the supervision of a licensed physical therapist.

Sec. 69. Section 71-2815, Revised Statutes Supplement, 2001, is amended to read:

71-2815. (1) The department, with the concurrence of the board, shall approve an application by a licensed physical therapist to supervise a physical therapist assistant when the proposed assistant is a graduate of an approved program. All physical therapist assistant applicants shall also successfully pass the written and practical examinations adopted by the board, with the concurrence of the department.

(2) The board shall grant any practicing physical therapist a certificate of approval to supervise not more than two physical therapist assistants. The department may certify as a physical therapist assistant and furnish a certificate to any person not qualified under subsection (1) of this section if such person can furnish written evidence to the board that he or she has been employed in the State of Nebraska for three years within the last five years under the supervision of a physical therapist licensed in Nebraska and such person possesses knowledge and training or a combination of knowledge and training equivalent to that obtained in an approved school. The board may certify persons as physical therapist assistants under this section for eighteen months only after August 24, 1979. On and after November 1, 2001, a certificate issued under this section shall be in effect for two years from the date of issuance. ~~and shall be renewable upon presentation to the board of evidence of completion of the continuing education requirements set out in section 71-2823 and payment of the renewal fee provided in section 71-2819.~~

(3) If the supervision of a physical therapist assistant is terminated by a physical therapist or by a physical therapist assistant, the physical therapist shall notify the department of such termination. A physical therapist who thereafter assumes the responsibility for such supervision shall obtain a certificate of approval to supervise a physical therapist assistant from the department prior to the use of the physical therapist assistant in the practice of physical therapy.

Sec. 70. Section 71-2823, Revised Statutes Supplement, 2001, is amended to read:

71-2823. (1) Every physical therapist who has an active license shall, on or before November 1, 2003, and on or before November 1 of every odd-numbered year thereafter, complete twenty hours of continuing education continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for his or her next subsequent license renewal. Such continuing education shall consist of such approved scientific schools, clinic, forums, lectures, or physical therapy educational seminars as may be announced and approved by the Board of Physical Therapy pursuant to the Uniform Licensing Law.

(2) Every physical therapist assistant who has an active certificate shall, on or before November 1, 2003, and on or before November 1 of every odd-numbered year thereafter, complete ten hours of continuing education continuing competency activities as required by the board pursuant to section 71-161.09 as a prerequisite for his or her next subsequent license renewal. Such continuing education shall consist of such approved scientific schools, clinics, forums, lectures, or physical therapy educational seminars as may be announced and approved by the board pursuant to the Uniform Licensing Law.

Sec. 71. Section 71-3503, Reissue Revised Statutes of Nebraska, is amended to read:

71-3503. For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to the Radiation Control Act;

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

(9) Coordinator means the Director of Regulation and Licensure;

(10) Council means the radiation advisory council provided for in section 71-3506;

(11) Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(12) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials;

(c) A license issued to a radon measurement specialist, radon measurement technician, radon mitigation specialist, radon mitigation technician, radon measurement business, or radon mitigation business; or

(d) A license issued to a medical radiographer or limited radiographer;

(13) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

(14) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

(15) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision (15)(a) of this section but does not include source material;

(16) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(17) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

(18) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(19) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care;

(20) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(21) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(22) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(23) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (13)(b) of this section;

(24) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner, except the commercial disposal of low-level radioactive waste in a disposal facility, designated by the Central Interstate Low-Level Radioactive Waste Compact Commission;

(25) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(26) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

(27) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated

with fuel assemblies;

(28) Transuranic waste means radioactive waste containing alpha-emitting transuranic elements, with radioactive half-lives greater than five years, in excess of one hundred nanocuries per gram;

(29) Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

(30) X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system;

(31) Limited radiographer means a person licensed to practice medical radiography pursuant to subsection (2) of section 71-3515.01. Limited radiographer does not include a person certified under section 71-176.01;

(32) Medical radiographer means a person licensed to practice medical radiography pursuant to subsection (1) of section 71-3515.01;

(33) Medical radiography means the application of radiation to humans for diagnostic purposes, including, but not limited to, adjustment or manipulation of X-ray systems and accessories including image receptors, positioning of patients, processing of films, and any other action that materially affects the radiation dose to patients; ~~and~~

(34) Licensed facility operator means any person or entity who has obtained a license under the Low-Level Radioactive Waste Disposal Act to operate a facility, including any person or entity to whom an assignment of a license is approved by the Department of Environmental Quality; and

(35) Deliberate misconduct means an intentional act or omission by a person that (a) would intentionally cause a licensee, registrant, or applicant for a license or registration to be in violation of any rule, regulation, or order of or any term, condition, or limitation of any license or registration issued by the department under the Radiation Control Act or (b) constitutes an intentional violation of a requirement, procedure, instruction, contract, purchase order, or policy under the Radiation Control Act by a licensee, a registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee, registrant, or applicant for a license or registration.

Sec. 72. Section 71-3507, Revised Statutes Supplement, 2000, is amended to read:

71-3507. (1) The department shall adopt and promulgate rules and regulations for the issuance, amendment, suspension, and revocation of general and specific licenses. Such licenses shall be for byproduct material, source material, special nuclear material, and radioactive material not under the authority of the federal Nuclear Regulatory Commission and for devices or equipment utilizing such materials. The rules and regulations shall provide:

(a) For written applications for a specific license which include the technical, financial, and other qualifications determined by the department to be reasonable and necessary to protect occupational and public health and safety and the environment;

(b) For additional written statements and inspections, as required by the department, at any time after filing an application for a specific license and before the expiration of the license to determine whether the license should be issued, amended, suspended, or revoked;

(c) That all applications and statements be signed by the applicant or licensee;

(d) The form, terms, and conditions of general and specific licenses;

(e) That no license or right to possess or utilize sources of radiation granted by a license shall be assigned or in any manner disposed of without the written consent of the department; and

(f) That the terms and conditions of all licenses are subject to amendment by rules, regulations, or orders issued by the department.

(2) The department may require registration or licensing of radioactive material not enumerated in subsection (1) of this section in order to maintain compatibility and equivalency with the standards and regulatory programs of the federal government or to protect the occupational and public health and safety and the environment.

(3) The department shall require licensure of persons providing measurement and mitigation services of radon or its decay products in order to protect the occupational and public health and safety and the environment. The department shall adopt and promulgate rules and regulations establishing education, experience, training, ~~and~~ examination, and continuing competency

requirements for radon measurement specialists, radon measurement technicians, radon mitigation specialists, and radon mitigation technicians. Continuing competency requirements may include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09. The department shall adopt and promulgate rules and regulations establishing staffing, proficiency, quality control, reporting, worker health and safety, equipment, and record-keeping requirements for radon measurement businesses and radon mitigation businesses and mitigation system installation requirements for radon mitigation businesses.

(4) The department shall license persons practicing medical radiography, including medical radiographers and limited radiographers, in order to protect the occupational and public health and safety and the environment. The licenses shall be ~~renewable~~ renewed biennially. For medical radiographers and limited radiographers, the department shall adopt and promulgate rules and regulations establishing examination requirements for licensure, continuing education competency requirements for renewal of a license, and approval requirements for examinations. Continuing education is sufficient to meet continuing competency requirements. Continuing competency requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensed person may select as an alternative to continuing education. For medical radiographers, the department shall adopt and promulgate rules and regulations establishing requirements for education and training and for approval of courses of training. Persons authorized under sections 71-193.15 and 71-193.17 to practice as dental hygienists and dental assistants who meet the requirements of section 71-193.13 shall not be required to be licensed under this section.

(5) The department may exempt certain sources of radiation or kinds of uses or users from licensing or registration requirements established under the Radiation Control Act when the department finds that the exemption will not constitute a significant risk to occupational and public health and safety and the environment.

(6) The department may provide by rule and regulation for the recognition of other state or federal licenses compatible and equivalent with the standards established by the department for Nebraska licensees.

(7) The department may accept accreditation for an industrial radiographer by a recognized independent accreditation body, a public agency, or the federal Nuclear Regulatory Commission, which has standards that are at least as stringent as those of the State of Nebraska, as evidence that the industrial radiographer complies with the rules and regulations adopted and promulgated pursuant to the act. The department may adopt and promulgate rules and regulations which list accreditation bodies, public agencies, and federal programs that meet this standard.

(8) The department may enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with the act and rules and regulations adopted and promulgated pursuant to the act, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

(9) The department shall cause to be registered with the department such sources of radiation as the department determines to be reasonably necessary to protect occupational and public health and safety and the environment as follows:

(a) The department shall, by public notice, establish a date on or before which date such sources of radiation shall be registered with the department, and the department shall provide appropriate forms for such registration. Each application for registration shall be in writing and shall state such information as the department by rules or regulations may determine to be necessary and reasonable to protect occupational and public health and safety and the environment;

(b) Registration of sources of radiation shall be an initial registration with appropriate notification to the department in the case of alteration of equipment, acquisition of new sources of radiation, or the transfer, loss, or destruction of sources of radiation and shall include the registration of persons installing or servicing sources of radiation;

(c) Failure to register or reregister sources of radiation in accordance with rules and regulations adopted and promulgated by the department shall be subject to a fine of not less than fifty dollars nor more than two hundred dollars; and

(d) The department may provide by rule and regulation for reregistration of sources of radiation.

(10) The results of any surveys or inspections of sources of

radiation conducted by the department shall be public records subject to sections 84-712 to 84-712.09. In addition, the following information shall be deemed confidential:

- (a) The names of individuals in dosimetry reports;
- (b) Emergency response procedures which would present a clear threat to security or disclose names of individuals; and
- (c) Any other information that is likely to present a clear threat to the security of radioactive material. The department shall make such reports of results of surveys or inspections available to the owner or operator of the source of radiation together with any recommendations of the department regarding deficiencies noted.

(11) The department shall have the right to survey or inspect again any source of radiation previously surveyed without limitation of the number of surveys or inspections conducted on a given source of radiation.

(12) The department may enter into contracts with persons or corporations to perform the inspection of X-ray radiation-generating equipment or devices which emit radiation from radioactive materials and to aid the department in the administration of the act.

Sec. 73. Section 71-3508.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-3508.03. (1) The department shall establish by rule and regulation annual fees for the radioactive materials licenses, for inspections of radioactive materials, for the registration and inspection of radiation-generating equipment and other sources of radiation, and for radon measurement and mitigation licenses and inspections of radon mitigation systems installations under the Radiation Control Act. The annual fee for registration and inspection of X-ray radiation generating equipment used to diagnose conditions in humans or animals shall not exceed seventy dollars per X-ray machine. The department shall also establish by rule and regulation additional fees for environmental surveillance activities performed by the department to assess the radiological impact of activities conducted by licensees and registrants. Such activities shall not duplicate surveillance programs approved by the federal Nuclear Regulatory Commission and conducted by entities licensed by such commission. ~~except that the annual fee for registration and inspection of X-ray radiation-generating equipment shall not exceed seventy dollars per X-ray machine. In determining such fees, the department shall, as an objective, obtain sufficient funds from the fees to pay for a portion of the direct and indirect costs of administering the act without loss or reduction of the General Fund allocation to the department. No fee shall exceed the actual cost to the department for licensure, inspection, or registration administering the act. The department may also contract with a registrant, a licensee, another state, or a federal agency to partially or fully recover the cost of administering the act. The fees collected shall be deposited in remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund and shall be used solely for the purpose of defraying the direct and indirect costs of administering the act. The department shall collect such fees. The cost of environmental surveillance activities performed by the department to assess the radiological impact of activities conducted by licensees and registrants shall be in addition to the annual fees.~~

(2) The department may, upon application by an interested person or on its own initiative, grant such exemptions from the requirements of this section as it determines are in the public interest. Applications for exemption under this subsection may include, but shall not be limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.

(3) When a registrant or licensee fails to pay the applicable fee, the department may suspend or revoke the registration or license or may issue an appropriate order.

Sec. 74. (1) Any licensee, registrant, applicant for a license or registration, employee of a licensee or registrant, contractor or subcontractor of a licensee, registrant, or applicant for a license or registration, or employee of any contractor or subcontractor of a licensee, registrant, or applicant for a license or registration, who knowingly provides to any licensee, registrant, applicant, contractor, or subcontractor any components, equipment, materials, or other goods or services that relate to a licensee's, registrant's, or applicant's activities covered by the Radiation Control Act, shall not (a) engage in deliberate misconduct that causes or would have caused, if not detected, a licensee, registrant, or applicant to be in violation of any rule, regulation, or order or any term, condition, or limitation of any license or registration issued by the department or (b) intentionally submit to the department, a licensee, a registrant, an

applicant, or a licensee's, registrant's, or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the department.

(2) Any person who violates this section is subject to section 71-3517.

Sec. 75. Section 71-3515.01, Revised Statutes Supplement, 2000, is amended to read:

71-3515.01. (1) A person licensed as a medical radiographer by the department may practice medical radiography on any part of the human anatomy for interpretation by and under the direction of a licensed practitioner, excluding interpretative fluoroscopic procedures. Such person shall:

(a) Prior to issuance of a license as a medical radiographer, (i) complete an educational program in radiography incorporating the course material as provided in the rules and regulations of the department pursuant to subsection (1) of section 71-3515.02 and (ii) complete an application which includes such person's social security number and successfully complete an examination approved by the department on the course material. Presentation of proof of registration in radiography with the American Registry of Radiologic Technologists is proof of meeting the requirements of this subdivision (a) of this subsection; and

(b) Prior to renewal of licensure as a medical radiographer, have an average of twelve units of continuing education per year as approved by the department or complete continuing competency activities as required by the department pursuant to section 71-3507.

Presentation of proof of current registration in radiography with the American Registry of Radiologic Technologists is proof of meeting the requirements of subdivisions (a) and (b) of this subsection.

(2) A person licensed as a limited radiographer by the department may practice medical radiography on limited regions of the human anatomy, using only routine radiographic procedures, for the interpretation by and under the direction of a licensed practitioner, excluding computed tomography, the use of contrast media, and the use of fluoroscopic or mammographic equipment. Such person shall:

(a) Prior to issuance of a license as a limited radiographer, complete an application which includes the applicant's social security number and successfully complete an examination approved by the department, as described in subdivision (2) (a) of section 71-3515.02 and at least one of the anatomical regions listed in subdivision (2) (b) of such section. The license issued shall be specific to the anatomical region or regions for which the applicant has passed an approved examination, except that an applicant may be licensed in the anatomical region of Abdomen upon successful passage of the examinations described in subdivisions (2) (a) and (2) (b) (iv) of section 71-3515.02 and upon a finding by the department that continued provision of service for a community would be in jeopardy; and

(b) Prior to renewal of licensure as a limited radiographer, have an average of twelve units of continuing education per year as approved by the department or complete continuing competency activities as required by the department pursuant to section 71-3507.

(3) The requirements of this section do not apply to a student while enrolled and participating in an educational program in medical radiography who, as a part of an educational program, applies X-rays to humans while under the supervision of the licensed practitioners or medical radiographers associated with the educational program. Students who have completed at least twelve months of the training course described in subsection (1) of section 71-3515.02 may apply for licensure as a temporary medical radiographer. Temporary medical radiographer licenses shall expire eighteen months after issuance and shall not be renewed. Persons licensed as temporary medical radiographers shall be permitted to perform the duties of a limited radiographer licensed in all anatomical regions of subdivision (2) (b) of such section and Abdomen.

Sec. 76. Section 71-3515.02, Revised Statutes Supplement, 2000, is amended to read:

71-3515.02. (1) The educational program for medical radiographers shall consist of twenty-four months of instruction in radiography approved by the department which includes, but is not limited to, radiographic procedures, imaging equipment, image production and evaluation, film processing, radiation physics, radiation protection, radiation biology, radiographic pathology, and quality assurance activities. The department shall recognize equivalent courses of instruction successfully completed by individuals who are applying for licensure as medical radiographers by the department when determining if the requirements of section 71-3515.01 have been met.

(2) The examination for limited radiographers shall include, but not

be limited to:

(a) Radiation protection, equipment maintenance and operation, image production and evaluation, and patient care and management; and

(b) The anatomy of, and positioning for, specific regions of the human anatomy. The anatomical regions shall include at least one of the following:

- (i) Chest;
- (ii) Extremities;
- (iii) Skull and sinus;
- (iv) Spine; or
- (v) Ankle and foot.

(3) The department shall adopt and promulgate rules and regulations regarding the examinations required in subdivisions (1)(a)(ii) and (2)(a) of section 71-3515.01. Such rules and regulations shall provide for (a) the administration of examinations based upon national standards, such as the Examination in Radiography from the American Registry of Radiologic Technologists for medical radiographers, the Examination for the Limited Scope of Practice in Radiography from the American Registry of Radiologic Technologists for limited radiographers, or equivalent examinations that, as determined by the department, meet the standards for educational and psychological testing as recommended by the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education, (b) procedures to be followed for examinations, (c) the method of grading and the passing grades for such examinations, (d) security protection for questions and answers, and (e) for medical radiographers, the contents of such examination based on the course requirements for medical radiographers prescribed in subsection (1) of this section. Any costs incurred in determining the extent to which examinations meet the examining standards of this subsection shall be paid by the individual or organization proposing the use of such examination.

(4) Any person employed in medical radiography before and on June 2, 1995, who is not otherwise licensed may apply for a license as a provisional limited radiographer before January 1, 1996. A person licensed as a provisional limited radiographer may perform the duties of a limited radiographer licensed in all anatomical regions listed in subdivision (2)(b) of this section and the anatomical region of Abdomen. A provisional limited radiographer shall not radiograph children under the age of six months, except (a) upon a finding by the department that continued provision of service for a community would be in jeopardy if this provision is enforced, (b) for an employee of a hospital licensed and in good standing under Chapter 71 and located in a rural area as defined in section 71-5653, or (c) in a bona fide emergency situation. No examination shall be required of individuals applying for a license as a provisional limited radiographer. All provisional limited radiographer licenses expire January 1, 2005. A license as a provisional limited radiographer is subject to discipline for violations of the Radiation Control Act and rules and regulations adopted pursuant to the act, including, but not limited to, revocation for nonpayment of fees or failure to meet continuing education requirements of subdivision (2)(b) of section 71-3515.01 competency requirements as required by the department pursuant to section 71-3507.

(5) No applicant for a license as a limited radiographer may take the examination for licensure, or for licensure for any specific anatomical region, more than three times without first waiting a period of one year after the last unsuccessful attempt of the examination and submitting proof to the department of completion of twelve units of continuing education meeting the requirements of subdivision (2)(b) of section 71-3515.01 continuing competency activities as required by the department pursuant to section 71-3507 for each subsequent attempt.

(6) The department shall adopt and promulgate rules and regulations establishing fees for the implementation of this section and section 71-3515.01, including an examination fee, initial and renewal licensure fees for persons performing medical radiography, and a fee for approval of courses of instruction. In determining such fees, the department shall obtain sufficient funds from the fees to pay the direct and indirect costs of administering such sections. No fee shall exceed the actual cost to the department for examination and licensure. The fees shall be collected and remitted by the department to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund and shall be used solely for the purpose of defraying the direct and indirect costs of administering such sections.

Sec. 77. Section 71-3517, Reissue Revised Statutes of Nebraska, is amended to read:

71-3517. (1) Any person who violates any of the provisions of the Radiation Control Act shall be guilty of a Class IV misdemeanor.

(2) In addition to the penalty provided in subsection (1) of this section, any person who violates any provision of the Radiation Control Act or any rule, regulation, or order issued pursuant to such act or any term, condition, or limitation of any license or registration certificate issued pursuant to such act shall be subject to:

(a) License revocation, suspension, modification, condition, or limitation;

(b) The imposition of a civil penalty; or

(c) The terms of any appropriate order issued by the department.

(3) Whenever the department proposes to subject a person to the provisions of subsection (2) of this section, the department shall notify the person in writing (a) setting forth the date, facts, and nature of each act or omission with which the person is charged, (b) specifically identifying the particular provision or provisions of the section, rule, regulation, order, license, or registration certificate involved in the violation, and (c) of the sanction or order to be imposed. If a civil penalty is imposed, the notice shall include a statement that it can be collected by civil action. of the time, date, and place at which a full and fair hearing will be had on such charge, (d) that the department may revoke, suspend, modify, condition, or limit a license, impose a civil penalty, or enter an appropriate order, and (e) that upon failure to pay the civil penalty, if any, subsequently determined by the department, the penalty may be collected by civil action. The notice shall be delivered to each alleged violator not less than ten days before the time set for the hearing by personal service, by certified or registered mail to his or her last-known address, or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated. The sanction or order in the notice shall become final thirty days after the mailing of the notice unless the applicant, registrant, or licensee, within the thirty-day period, requests, in writing, a hearing before the department. If the notice is served by personal service or publication, the sanction or order shall become final thirty days after completion of such service unless the applicant, registrant, or licensee, within the thirty-day period, requests, in writing, a hearing before the department.

(4) Hearings held pursuant to subsection (3) of this section shall be held in accordance with rules and regulations adopted and promulgated by the department and shall provide for the alleged violator to present such evidence as may be proper. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations of the department. A full and complete record shall be kept of the proceedings.

(5) Following the hearing, the director shall determine whether the charges are true or not, and if true, the director may (a) issue a declaratory order finding the charges to be true, (b) revoke, suspend, modify, condition, or limit the license, (c) impose a civil penalty in an amount not to exceed ten thousand dollars for each violation, or (d) enter an appropriate order. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty and the amount of the penalty shall be based on the severity of the violation. A copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by either certified or registered mail to the alleged violator. The decision may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(6) Any civil penalty assessed and unpaid under subsection (5) of this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within thirty days from receipt, transmit any collected civil penalty to the State Treasurer for deposit in the permanent school fund.

Sec. 78. Section 71-3519, Revised Statutes Supplement, 2001, is amended to read:

71-3519. Sections 71-3501 to 71-3519 and section 74 of this act shall be known and may be cited as the Radiation Control Act.

Sec. 79. Section 71-3709, Reissue Revised Statutes of Nebraska, is amended to read:

71-3709. (1) The board shall keep a record of its proceedings.

(2) The board shall maintain a register of all applications for registration which shall show (a) the place of residence, name, and age of each applicant, (b) the name and address of the employer or business

connection of each applicant, (c) the date of application, (d) complete information of educational and experience qualifications, (e) the action taken by the board, (f) the serial number of the certificate of registration issued to the applicant, (g) the date on which the board reviewed and acted upon the application, and (h) such other pertinent information as may be deemed necessary by the board.

(3) The board shall maintain a current registry of all environmental health specialists and trainees in the State of Nebraska who have been registered in accordance with the provisions of sections 71-3702 to 71-3715.

(4) The board shall maintain a current registry of the ~~hours of continuing education earned competency requirements completed~~ by each registered environmental health specialist and each registered trainee in accordance with section 71-3710.

Sec. 80. Section 71-3710, Revised Statutes Supplement, 2000, is amended to read:

71-3710. (1) The board shall prescribe and provide an application form for the use of all applicants. Applicants for registration as environmental health specialists shall submit a fee of ten dollars and applicants for registration as trainees shall submit a fee of five dollars at the time of making application for registration. Such fees shall not be refundable. The board may also assess an additional fee for the cost of the examination when necessary.

A registered environmental health specialist may renew his or her registration by paying the board a biennial renewal fee of not less than thirty dollars nor more than three hundred fifty dollars as the board shall direct. Such fee shall be due and payable on or before January 1, 1987, and on or before January 1 of each odd-numbered year for which a renewal registration is issued. All registrations shall expire on December 31 of each even-numbered year. Procedures for renewal and for assessment of additional fees for late renewal or reinstatement shall be in accordance with section 71-110.

In no case shall registration for a trainee exceed a two-year period.

(2) Each registered environmental health specialist or trainee in active practice in the state shall, ~~be required~~ on or before December 31 of each even-numbered year, ~~to attend twenty-four hours biennially of such approved scientific schools, clinics, forums, lectures, or environmental health specialist educational seminars, as may be announced and approved by the Director of Regulation and Licensure under direction from the board, complete continuing competency activities as required by the board and adopted and promulgated by the department in rules and regulations as a prerequisite for the registrant's next subsequent biennial registration renewal. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a registrant may select as an alternative to continuing education. At least twelve hours of such educational program shall be conducted annually within the State of Nebraska.~~

Each registered environmental health specialist and trainee in active practice within the State of Nebraska shall, on or before December 31 of each even-numbered year, certify to the department that he or she has complied with this subsection during the preceding two-year period. ~~The director shall, on or before December 31 of each even-numbered year, report all registrants who have complied with the educational requirements to the board.~~ Any registrant who has not complied with such requirements shall not be issued a renewal registration except if he or she is exempt as provided in subsection (3) of this section. Procedures for nonrenewal of the registration of such registrants shall be identical to those for nonpayment of renewal fees as provided in sections 71-110 and 71-149. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply. Additional fees for late renewal shall be assessed in accordance with section 71-110.

(3) A registrant shall be exempt from the requirements of subsection (2) of this section if he or she:

(a) Holds a Nebraska certificate of registration but is not practicing as a registered environmental health specialist or registered trainee in Nebraska;

(b) Serves in the regular armed forces of the United States during any part of the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(c) Attends a college, university, or other institution of higher education for a residence period of time in excess of eight months during any

part of the twenty-four months immediately preceding the biennial certificate of registration renewal date;

(d) Submits proof that he or she was suffering from a serious or disabling illness or physical disability during the twenty-four months immediately preceding the biennial certificate of registration renewal date which prevented his or her attendance at any qualified educational seminar within the State of Nebraska during the twenty-four months immediately preceding the biennial certificate of registration renewal date completion of continuing competency requirements established by the board;

(e) Had first registered within the twenty-four months immediately preceding the biennial certificate of registration renewal date; or

(f) Is a registered environmental health specialist in good standing with the board who has completely retired from the active practice of environmental sanitation.

Sec. 81. Section 71-4301, Reissue Revised Statutes of Nebraska, is amended to read:

71-4301. ~~As used in~~ For purposes of sections 71-4301 to 71-4307, unless the context otherwise requires, swimming pool means + Swimming pool shall mean any artificial basin of water which has been wholly designed, modified, improved, constructed, or installed solely for the purpose of public swimming, wading, diving, recreation, or instruction. Swimming pool includes, but is not limited to, a pool serving a community, a subdivision, an apartment complex, a condominium, a club, a camp, a school, an institution, a park, a manufactured home park, a hotel, a motel, a recreational area, or a water park. Swimming pool includes a spa, hot tub, or whirlpool or similar device which (1) is designed for recreational use and not to be drained, cleaned, and refilled after each individual use and (2) may consist of elements, including, but not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof. Swimming pool does not include an artificial lake, a pool at a private residence and which is equipped with equipment to filter and disinfect, and shall include pools for community use, pools at apartments or housing developments having five or more living units, clubs, camps, schools, institutions, park and recreation areas, motels, hotels and other commercial establishments. Sections 71-4301 to 71-4307 shall not apply to pools at private residences intended only for the use of the owner and guests, or a pool operated exclusively for medical treatment, physical therapy, water rescue training, or training of divers.

Sec. 82. Section 71-4302, Reissue Revised Statutes of Nebraska, is amended to read:

71-4302. The Department of Health and Human Services Regulation and Licensure shall prepare, adopt, and have printed minimum sanitary and safety requirements in the form of regulations for the design, construction, equipment, and operation of swimming pools and bather preparation facilities. Such requirements shall include, but not be limited to, provisions for waiver or variance of design standards and the circumstances under which such waiver or variance may be granted.

Sec. 83. Section 71-4305, Reissue Revised Statutes of Nebraska, is amended to read:

71-4305. (1) The Department of Health and Human Services Regulation and Licensure shall make at least one inspection every year of each swimming pool to determine that such swimming pool complies with the minimum sanitary and safety requirements.

(2) The owner and operator of any swimming pool shall submit such operation and analytical records as may be requested at any time by the Department of Health and Human Services Regulation and Licensure to determine the sanitary and safety condition of the swimming pool.

(3) The distinction between Class A and Class B swimming pools shall be prescribed by regulation by the Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations which classify swimming pools on the basis of criteria deemed appropriate by the department. The department shall charge engineering firms, swimming pool owners and operators, and other appropriate parties fees established by rules and regulations regulation for the review of plans and specifications of a swimming pool, the issuance of a license or permit, the provision of swimming pool operator testing services, the inspection of a swimming pool, and any other services rendered at a rate which defrays no more than the actual cost of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure.

All fees collected under this section shall be deposited in remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. The Department of Health and Human Services Regulation and Licensure shall not charge a municipal

corporation an inspection fee for an inspection of a swimming pool owned by such municipal corporation.

Sec. 84. Section 71-4702.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-4702.01. Every hearing aid instrument dispenser and fitter who is licensed to practice in Nebraska and is in active practice in this state shall be required to complete ~~twenty-four hours of continuing education in the same manner as provided in sections 71-161.09 and 71-161.10~~ continuing competency activities as required by the board pursuant to section 71-4716 as a condition for biennial renewal.

Sec. 85. Section 71-4711, Reissue Revised Statutes of Nebraska, is amended to read:

71-4711. Licenses issued pursuant to sections 71-4701 to 71-4719 shall be subject to biennial renewal and shall expire December 31 of each even-numbered year in accordance with section 71-110. Procedures for renewal and for assessment of additional fees for late renewal shall be in accordance with ~~section~~ sections 71-110 and 71-161.10.

Sec. 86. Section 71-4716, Reissue Revised Statutes of Nebraska, is amended to read:

71-4716. (1) The board shall advise the department in all matters relating to sections 71-4701 to 71-4719, shall prepare the examinations required by such sections for the department, shall by a vote of four-fifths recommend licensure, and shall assist the department in carrying out the provisions of such sections.

(2) The department shall be guided by the recommendations of the board in all matters relating to such sections.

(3) The board shall establish continuing competency requirements for persons licensed under such sections. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensed person may select as an alternative to continuing education. The requirements shall be approved by the board and adopted and promulgated by the department in rules and regulations.

Sec. 87. Section 71-5178, Revised Statutes Supplement, 2001, is amended to read:

71-5178. The department, with the approval of the board, shall adopt and promulgate rules and regulations necessary to:

(1) Implement the Emergency Medical Services Act;

(2) Create the following certification classifications of out-of-hospital emergency care providers: (a) First responder; (b) emergency medical technician; (c) emergency medical technician-intermediate; and (d) emergency medical technician-paramedic. The rules and regulations creating the classifications shall include the practices and procedures authorized for each classification, training and testing requirements, recertification requirements, and other criteria and qualifications for each classification determined to be necessary for protection of public health and safety;

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

(4) Establish procedures and requirements for applications for examination, certification, or recertification in any of the certification classifications created pursuant to the Emergency Medical Services Act;

(5) Provide for the licensure of basic life support services and advanced life support services. The rules and regulations providing for licensure shall include standards and requirements for: Vehicles, equipment, maintenance, sanitation, inspections, personnel, training, medical direction, records maintenance, practices and procedures to be provided by employees or members of each classification of service, and other criteria for licensure established by the department with the approval of the board;

(6) Authorize emergency medical services to provide differing practices and procedures depending upon the qualifications of out-of-hospital emergency care providers available at the time of service delivery. No emergency medical service shall be licensed to provide practices or procedures without the use of personnel certified to provide the practices or procedures;

(7) Authorize out-of-hospital emergency care providers to perform any practice or procedure which they are authorized to perform with an emergency medical service other than the service with which they are affiliated when requested by the other service and when the patient for whom

they are to render services is in danger of loss of life;

(8) Provide for the approval, inspection, review, and termination of approval of training agencies and establish minimum standards for services provided by training agencies. All training for certification shall be provided through an approved or accredited training agency;

(9) Provide for the minimum qualifications of a physician medical director in addition to the licensure required by subdivision (10) of section 71-5175;

(10) Provide for the use of physician medical directors, qualified physician surrogates, model protocols, standing orders, operating procedures, and guidelines which may be necessary or appropriate to carry out the purposes of the act. The model protocols, standing orders, operating procedures, and guidelines may be modified by the physician medical director for use by any out-of-hospital emergency care provider or emergency medical service before or after adoption;

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

(12) Establish recertification and renewal requirements for out-of-hospital emergency care providers and emergency medical services and ~~provide for compliance with recertification requirements by one of the following methods:~~ (a) Continuing education; (b) achieving a department-prescribed level of performance on a written and practical skills test; or (c) verification by a physician medical director or qualified physician surrogate that the applicant is qualified for recertification ~~adopt and promulgate rules and regulations to establish continuing competency requirements as approved by the board. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a certified person may select as an alternative to continuing education. The recertification requirements for out-of-hospital emergency care providers shall allow recertification at the same or any lower level of certification for which the out-of-hospital emergency care provider is determined to be qualified;~~

(13) Establish criteria for deployment and use of automated external defibrillators as necessary for the protection of the public health and safety; and

(14) Create certification, recertification, and renewal requirements for emergency medical service instructors. The rules and regulations shall include the practices and procedures for certification, recertification, and renewal.

All certificates and licenses issued under the act shall expire at midnight on December 31 the third year after issuance.

Sec. 88. Section 71-5179, Revised Statutes Supplement, 2000, is amended to read:

71-5179. (1) The Legislature adopts all parts of the United States Department of Transportation curricula, including appendices, and skills as the training requirements and permitted practices and procedures for the certification classifications listed in subdivision (2) of section 71-5178 until modified by rule and regulation.

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

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

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

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

(d) Whether ~~continuing education hours~~ continuing competency requirements are sufficient to maintain the skills authorized for the classification.

Sec. 89. Section 71-5206.01, Revised Statutes Supplement, 2000, is amended to read:

71-5206.01. The Legislature may provide funding to the Office of Rural Health for the purpose of funding the cost of resident stipends and benefits, which funding may include health insurance, professional liability

insurance, disability insurance, medical education expenses, continuing ~~medical education~~ competency expenses, pension benefits, moving expenses, and meal expenses in family practice residency programs based in Nebraska but which are not under a contract pursuant to section 71-5206. The resident stipends and benefits funded in this section shall apply only to residents who begin family practice residency training at a qualifying institution in years beginning on or after January 1, 1993. The total funding provided in the form of stipend and benefit support per resident to a family practice residency program under this section shall not exceed the total funding provided in the form of stipend and benefit support per resident to a family practice residency program under section 71-5203.

Upon receiving an itemized statement of the cost of stipends and benefits of a family practice residency program from a sponsoring institution and upon determining that the sponsoring institution is not receiving funds under a contract pursuant to section 71-5206, the office may reimburse such institution fifty percent of such cost for each family practice resident in the program. The office may reimburse such institution twenty-five percent of the remaining cost per family practice resident for each year that one of the program's graduates practices family medicine in Nebraska, up to a maximum of three years for each graduate, and an additional twenty-five percent of the remaining cost per resident for each of the program's graduates who practices family medicine in an area of Nebraska classified as of January 1, 1991, by the United States Secretary of Health and Human Services as Medicare Locale 16. The total number of residents receiving annual financial payments made under this section shall not exceed nine students during any school year.

At the end of the third year of the funding under this section, the sponsoring institutions and the office shall report to the Legislature regarding the performance of the residency programs and the placement of residents and physicians for training and practice.

Sec. 90. Section 71-5308, Revised Statutes Supplement, 2001, is amended to read:

71-5308. (1) Application for a certificate of competency to act as a certified operator of a public water system shall be made upon forms prepared by the director and shall contain such information as the director, by rule and regulation, deems necessary. If the applicant is an individual, the application shall include the applicant's social security number.

(2) Certificates of competency to act as certified operators of public water systems shall be issued by the department for the calendar years applied for and shall expire at midnight on December 31 of the third year. Certificates of competency may be renewed triennially upon application and completion of continuing competency requirements established by the department in rules and regulations. The requirements may include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09. The department shall notify each certificate holder at least ninety days before the expiration of the certificate by a letter addressed to him or her at his or her last place of residence as noted upon its records.

(3) The department shall, within thirty days after receipt of an application, make an investigation and, if found in compliance with regulations adopted pursuant to section 71-5309, shall issue a certificate of competency, valid until midnight of December 31 of the third year.

Sec. 91. 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~~ competency 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. 92. 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~~ An administrator overseeing the operations of an integrated system ~~are~~ is subject to disciplinary action against ~~their~~ his or her 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~~ competency 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. 93. Section 71-6060, Revised Statutes Supplement, 2000, is amended to read:

71-6060. (1) ~~Each~~ Except as provided in subdivision (1)(b) of section 71-6054, 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 complete continuing competency activities as required by the board pursuant to section 71-6067 as a

prerequisite for the Nebraska licensee's next subsequent biennial license renewal. Each licensee shall ~~certify on an affidavit form provided~~ document as required 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 records of compliance with the continuing competency requirements.~~ 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~~ compliance with the continuing competency requirements 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. 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~~ competency requirements in effect at the time of such request and payment of the license renewal fee then due.

(3) Providers of continuing ~~education~~ competency activities or licensees may submit courses for review and approval by the board. Each provider or licensee applying for approval of continuing ~~education~~ competency activities shall pay an application fee of thirty-five dollars 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. 94. Section 71-6067, Revised Statutes Supplement, 2000, is amended to read:

71-6067. The board shall:

(1) Develop, impose, and enforce standards which shall be met by individuals in order to receive a license, which standards shall be designed to insure that such administrators will be individuals who are of good character and are otherwise suitable and who, by training or experience in the field of institutional administration, are qualified to serve as administrators;

(2) Develop and apply appropriate techniques, including examinations, for determining whether an individual meets such standards;

(3) Issue licenses to individuals determined, after the application of such techniques, to meet such standards and recommend to revoke or suspend licenses previously issued by the board in any case in which the individual holding any such license failed to conform to such standards;

(4) Establish and carry out procedures designed to insure that individuals licensed as administrators will, during any period that they serve as such, comply with the requirements of such standards;

(5) Adopt and promulgate rules and regulations governing continuing ~~education~~ competency requirements and renewal and reinstatement procedures for licensure. Continuing education is sufficient to meet continuing competency requirements. Continuing competency requirements established by the board may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensed individual may select as an alternative to continuing education;

(6) Adopt and promulgate rules and regulations governing administrator-in-training and mentoring programs, including, but not limited

to, matters such as (a) qualifications for administrators-in-training and persons in mentoring programs, (b) qualifications and evaluation standards for certified preceptors, (c) methods of instruction and supervision, (d) methods of documentation, and (e) reporting requirements;

(7) Conduct a continuing study and investigation of homes for the aged or infirm and nursing homes and administrators of such facilities within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards; and

(8) Conduct or cause to be conducted by making use of the resources available one or more courses of instruction and training sufficient to meet the requirements of sections 71-6053 to 71-6068 and make provisions for such courses and their accessibility to residents of this state unless it finds that there are a sufficient number of approved courses which are taught by others in this state. In lieu thereof, the board may approve courses taught in and outside this state as sufficient to meet the education and training requirements of such sections. For purposes of this subdivision, the board shall have the authority to receive and disburse federal funds received pursuant to section 1908(e)(1) of the federal Social Security Act, as amended.

Sec. 95. Section 71-6103, Revised Statutes Supplement, 2001, is amended to read:

71-6103. For purposes of the Occupational Therapy Practice Act, unless the context otherwise requires:

(1) Active license means the license of a person who is acting, practicing, functioning, and working in compliance with the requirements of a license;

(2) Association means a recognized national or state association for occupational therapy;

(3) ~~Audit means the selection of licensees for verification of satisfactory completion of the continuing education requirements of the act during a biennium;~~

~~(4) Biennium means a period of two calendar years;~~

~~(5) Board means the Board of Occupational Therapy Practice established by section 71-6115;~~

~~(6) Continuing education means planned, organized learning activities designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public;~~

~~(7) Continuing education activity means the various methods in which a licensee can obtain the necessary continuing education for license renewal;~~

~~(8) (4) Credentialing means the process of obtaining state approval to provide health care services or human services or to change aspects of a current approval and includes, but is not limited to, granting permission to use a protected title that signifies that a person is qualified to provide the services within the scope of practice of a profession;~~

~~(9) (5) Department means the Department of Health and Human Services Regulation and Licensure;~~

~~(10) (6) License means a license issued under the act;~~

~~(11) (7) Licensee means a person holding a license;~~

~~(12) (8) Occupational therapist means a person holding an active license as an occupational therapist;~~

~~(13) (9) Occupational therapy means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence, prevent disability, and maintain health. Occupational therapy encompasses evaluation, treatment, and consultation and may include teaching daily living skills, developing perceptual-motor skills and sensory integrative functioning, developing prevocational capacities, designing, fabricating, or applying selected orthotic and prosthetic devices or selective adaptive equipment, using specifically designed therapeutic media and exercises to enhance functional performance, administering and interpreting tests such as manual muscle and range of motion, and adapting environments for the handicapped;~~

~~(14) (10) Occupational therapy aide means a person who assists in the practice of occupational therapy, who works under the supervision of an occupational therapist, and whose activities require an understanding of occupational therapy but do not require professional or advanced training or licensure;~~

~~(15) (11) Occupational therapy assistant means a person holding an active license as an occupational therapy assistant; and~~

~~(16) (12) Person means any individual, partnership, limited~~

liability company, unincorporated organization, or corporate body.

Sec. 96. Section 71-6113, Revised Statutes Supplement, 2001, is amended to read:

71-6113. (1)(a) Licenses issued under the Occupational Therapy Practice Act shall be subject to biennial renewal and shall expire August 1 of each even-numbered year unless renewed in the manner provided by section 71-110 upon ~~presentation to the board of evidence of~~ completion of the continuing education requirements established competency activities as required under subsection (2) of this section and upon payment of the renewal fee prescribed in section 71-6114.

(b) A licensee whose license is revoked for nonpayment of the biennial renewal fee as provided in section 71-110 may be reinstated upon the recommendation of the board and the payment of the reinstatement and renewal fees prescribed in section 71-6114 and an additional fee as prescribed in subsection (5) or (6) of section 71-110, except that no reinstatement of a license may be granted more than five years after its expiration.

(2)(a) ~~Every~~ Each Nebraska-licensed occupational therapist in active practice within the State of Nebraska shall, on or before August 1, 2002, and on or before August 1 of each even-numbered year thereafter, complete twenty hours of continuing education continuing competency activities as required by the board pursuant to section 71-6115 as a prerequisite to renewal of his or her license. Such continuing education shall consist of continuing education activities approved by the board.

(b) ~~Every~~ Each Nebraska-licensed occupational therapy assistant in active practice within the State of Nebraska shall, on or before August 1, 2002, and on or before August 1 of each even-numbered year thereafter, complete fifteen hours of continuing education continuing competency activities as required by the board pursuant to section 71-6115 as a prerequisite to renewal of his or her license. Such continuing education shall consist of continuing education activities approved by the board.

(3) Every occupational therapist and occupational therapy assistant shall provide documentation of completing such continuing competency activities as required by the board. ~~a listing of continuing education activities 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 designed by the department. Every occupational therapist and occupational therapy assistant shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.~~

The board shall biennially select, in a random manner, a representative sample of the license renewal applications for audit of compliance with continuing education credits competency requirements. ~~The board shall cause the occupational therapist or occupational therapy assistant to submit certificates or other records of attendance which were received from the approved provider for review by the board.~~

(4) The department, on the recommendation of the board, may waive continuing education competency requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

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

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

(c) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required ~~number of~~ continuing education hours competency activities during the twenty-four months preceding the license renewal date;

(d) The licensee has been initially licensed by the board within the twenty-four months immediately preceding the license renewal date; and

(e) The licensee has successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to occupational therapy.

Sec. 97. Section 71-6115, Revised Statutes Supplement, 2001, is amended to read:

71-6115. (1) The Board of Occupational Therapy Practice is established. The board shall consist of at least four members appointed by the State Board of Health, all of whom shall be residents of this state. Any statewide association of occupational therapists may submit a list of names of

qualified persons from which the State Board of Health may choose members of the Board of Occupational Therapy Practice. Three of the persons appointed shall have been engaged in rendering services to the public, teaching, or research in occupational therapy for at least five years immediately preceding their appointments. Two of the persons appointed shall be occupational therapists and one shall be either an occupational therapist or an occupational therapy assistant and all shall be holders of active licenses issued under the Occupational Therapy Practice Act during their terms. The fourth member shall be a member of the public with an interest in the rights of the consumers of health services. The members of the board shall serve five-year terms, except that the initial members of the board shall serve as follows: The member of the public shall serve one year and the remaining members shall serve terms of two, three, and four years as the State Board of Health shall designate. The term of each member shall commence on December 1 following the expiration of the preceding term. No person shall serve more than two full consecutive terms on the board. The State Board of Health shall fill any vacancy for an unexpired term in the same manner as the initial appointment. The members shall not receive compensation but shall be reimbursed for their actual expenses incurred while in the performance of their duties in the same manner as state employees pursuant to sections 81-1174 to 81-1177. The board shall annually elect a chairperson and such other officers as it deems necessary and shall meet at least once per year or more as the department and board shall determine. Members of the board may be removed from office on the grounds and in the manner provided by section 71-118.

(2) The board, with the approval of the department, shall adopt and promulgate rules and regulations necessary to administer the Occupational Therapy Practice Act. The rules and regulations shall include (a) definitions of unprofessional conduct, (b) definitions of conflicts of interest for members of the board and procedures in the case such a conflict arises, (c) role delineation for occupational therapy assistants, and (d) continuing competency requirements. Continuing education is sufficient to meet continuing competency requirements. Such requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensed person may select as an alternative to continuing education. approved continuing education activities, the maximum number of contact hours that can be earned in a specific continuing education activity, and waiver of continuing education requirements.

~~(3) For purposes of this section, approved continuing education activity includes a program of occupational therapy education and training approved by the board. Such approval may be based on the standards established by the board in conjunction with a statewide task force of occupational therapists, health care consumers, and other health care professionals.~~

Sec. 98. Section 71-6302, Reissue Revised Statutes of Nebraska, is amended to read:

71-6302. Except as otherwise provided in this section or section 71-6309, a business entity shall not engage in an asbestos project unless the business entity holds a license for that purpose. A business entity which (1) only performs asbestos projects which are less than two hundred sixty linear feet or which are less than one hundred sixty square feet and linear feet in any combination or (2) uses its own employees for an asbestos project for the purpose of renovating, maintaining, or repairing its own facilities shall not be required to hold a license. Business entities not required to hold a license shall provide a training course to inform the employees of the health and safety aspects of the asbestos project, including the applicable state standards. The training course shall meet the standards for such course as prescribed in ~~sections~~ section 71-6310.01 and 71-6310.02 and the rules and regulations adopted and promulgated pursuant to such ~~sections~~ section. The training course shall be available for review and approval upon inspection by the department.

Sec. 99. Section 71-6303, Reissue Revised Statutes of Nebraska, is amended to read:

71-6303. (1) The department shall administer the Asbestos Control Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out the act. The department shall adopt state standards governing asbestos projects and may adopt or incorporate part or all of any federal standards in the state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

(b) For certification or recertification of a worker, not less than thirty-five dollars or more than one hundred dollars;

(c) For certification or recertification of a supervisor, not less than seventy dollars or more than two hundred dollars;

(d) For certification or recertification of an inspector, not less than seventy dollars or more than two hundred dollars;

(e) For certification or recertification of a management planner, not less than one hundred dollars or more than three hundred dollars, which fee shall include certification or recertification as an inspector;

(f) For certification or recertification of a project designer, not less than seventy dollars or more than two hundred dollars;

(g) For certification or recertification of a project monitor, not less than one hundred dollars or more than three hundred dollars;

(h) For waiver on an emergency basis of a business entity license, not less than two thousand dollars or more than five thousand dollars;

(i) For waiver of a license for a business entity not primarily engaged in asbestos projects, not less than two thousand dollars or more than five thousand dollars;

(j) For approval of an initial training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(k) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(l) For an onsite inspection of an asbestos project other than an initial inspection, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual asbestos project is in progress; and

(m) For a project review of each asbestos project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

Any applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

All fees shall be based on the costs of administering the Asbestos Control Act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an asbestos project, the department shall conduct an onsite inspection of each licensed business entity's procedures for performing asbestos projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for asbestos projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of asbestos occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

(8) The department shall adopt and promulgate rules and regulations to establish continuing competency requirements for persons certified under the act. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a certified person may select as an alternative to continuing education.

Sec. 100. Section 71-6310.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-6310.02. ~~(1)~~ Any person certified in any of the asbestos occupations prescribed in section 71-6310, as a condition for ~~recertification certificate renewal~~, shall ~~successfully complete an annual review course approved by the department of not less than one day~~, ~~except that for inspectors the review course requirement shall be one-half day~~, complete continuing competency activities as required by the department pursuant to section 71-6303 and shall be examined and approved by a physician as prescribed for initial applicants in section 71-6310. The certificate holder shall submit evidence as required by the department of satisfaction of the requirements of this ~~subsection~~ section.

~~(2) Each review course shall be specific for each of the classes of occupations referred to in section 71-6310 and shall include a review and discussion of changes in federal and state regulations, new developments in asbestos procedures and techniques specific for that class, and a review of principal aspects of the initial training course. The written examination for each of the classes for recertification shall be approved and may be administered by the department and shall be composed of multiple choice questions covering subjects dealing with the review course. The passing score shall be determined by the department.~~

~~(3) An applicant for approval of a review course shall submit an application for approval of such course on a form provided by the department together with the prescribed fee.~~

Sec. 101. Section 71-6321, Revised Statutes Supplement, 2001, is amended to read:

71-6321. (1) The department shall administer the Residential Lead-Based Paint Professions Certification Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out such act. The department shall adopt state standards governing abatement projects and may adopt or incorporate part or all of any federal standards in such state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For an annual firm certificate or certificate renewal, not less than two hundred dollars or more than five hundred dollars;

(b) For certification or recertification of a certified abatement worker, not less than thirty-five dollars or more than one hundred dollars;

(c) For certification or recertification of a certified supervisor, not less than seventy dollars or more than two hundred dollars;

(d) For certification or recertification of a certified inspector, not less than seventy dollars or more than two hundred dollars;

(e) For certification or recertification of a certified risk assessor, not less than seventy dollars or more than two hundred dollars;

(f) For certification or recertification of a certified visual lead-hazard advisor, not less than thirty-five dollars or more than one hundred dollars;

(g) For certification or recertification of a certified project designer, not less than seventy dollars or more than two hundred dollars;

(h) For accreditation of a training program, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(i) For accreditation of a review course or a course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(j) For onsite inspections other than initial inspections, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual abatement project is in progress; and

(k) For a project review of each abatement project of a certified firm, not less than two hundred dollars or more than five hundred dollars.

Any applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of one hundred dollars for a firm certificate and for accreditation of a training program shall be retained by the department.

All fees shall be based on the costs of administering the act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health and

Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an abatement project the department shall conduct an onsite inspection of each certified firm's procedures for performing abatement projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act if such agencies have the appropriate certification or accreditation as described in the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for abatement projects, for the certification of lead-based paint professions, for the accreditation of training programs, for the accreditation of training program providers, for the dissemination of prerenovation information to homeowners and occupants, for the facilitation of compliance with federal lead-based paint hazard control grant programs, and for the implementation of lead-based paint compliance monitoring and enforcement activities. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of lead-based paint professions and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act. Any funds applied for, received, or used by the department or any political subdivision from the federal government or any public entity may be used only to abate lead-based paint hazards and for the administration of lead-based paint programs which address health and environmental hazards caused by lead-based paint.

(8) The department shall adopt and promulgate rules and regulations to establish continuing competency requirements for persons certified under the act. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a certified person may select as an alternative to continuing education.

Sec. 102. Section 71-6327, Revised Statutes Supplement, 2000, is amended to read:

71-6327. Any individual certified in any of the lead-based paint professions prescribed in the Residential Lead-Based Paint Professions Certification Act, as a condition for ~~recertification~~ certificate renewal, shall ~~successfully complete a review course approved by the department~~ complete continuing competency activities as required by the department pursuant to section 71-6321.

Sec. 103. Section 71-6725, Revised Statutes Supplement, 2000, is amended to read:

71-6725. (1) The minimum competencies for a medication aide, a person licensed to operate a child care facility or a staff member of a child care facility, or a staff member of a school shall include (a) maintaining confidentiality, (b) complying with a recipient's right to refuse to take medication, (c) maintaining hygiene and current accepted standards for infection control, (d) documenting accurately and completely, (e) providing medications according to the five rights, (f) having the ability to understand and follow instructions, (g) practicing safety in application of medication procedures, (h) complying with limitations and conditions under which a medication aide may provide medications, and (i) having an awareness of abuse and neglect reporting requirements and any other areas as shall be determined by rules or regulations.

(2) The Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations setting minimum standards for competencies listed in subsection (1) of this section and methods for competency assessment of medication aides. The Department of Health and Human Services shall adopt and promulgate rules and regulations setting methods for competency assessment of the person licensed to operate a child care facility or staff of child care facilities. The State Department of Education shall adopt and promulgate rules and regulations setting methods for competency assessment of the school staff member.

(3) A medication aide (except one who is employed by a nursing home, an intermediate care facility for the mentally retarded, or an assisted-living facility), a person licensed to operate a child care facility or a staff member of a child care facility, or a staff member of a school shall not be required to take a course. The medication aide shall be assessed to determine that the medication aide has the competencies listed in subsection (1) of this section.

(4) ~~A medication aide providing services in an assisted-living~~

facility as defined in section 71-406 shall be required to have successfully completed a twenty-hour course on the competencies listed in subsection (1) of this section and competency standards established through rules and regulations as provided for in subsection (2) of this section. Competency assessment shall include passing an examination developed and administered by the Department of Health and Human Services Regulation and Licensure. Criteria for establishing a passing standard for the examination shall be established in rules and regulations.

(5) A medication aide providing services in an assisted-living facility as defined in section 71-406, a nursing home, or an intermediate care facility for the mentally retarded shall be required to have completed a forty-hour course on the competencies listed in subsection (1) of this section and competency standards established through rules and regulations as provided for in subsection (2) of this section, except that a medication aide who has, prior to the operative date of this act, completed a twenty-hour course and passed an examination developed and administered by the Department of Health and Human Services Regulation and Licensure may complete a second twenty-hour course supplemental to the first twenty-hour course in lieu of completing the forty-hour course. The department shall adopt and promulgate rules and regulations regarding the procedures and criteria for curriculum. Competency assessment shall include passing an examination developed and administered by the department. Criteria for establishing a passing standard for the examination shall be established in rules and regulations. Before providing services in a nursing home or an intermediate care facility for the mentally retarded, a medication aide who has previously met the requirements of subsection (4) of this section shall be required to complete an additional twenty-hour course. This twenty-hour course, together with the twenty-hour course set forth in subsection (4) of this section shall be equivalent to the forty-hour course set forth in this subsection.

(5) Medication aides providing services in nursing homes or intermediate care facilities for the mentally retarded shall also meet the requirements set forth in section 71-6039.

Sec. 104. Section 71-6734, Revised Statutes Supplement, 2000, is amended to read:

71-6734. The department shall set fees for registration and renewal of registration as set forth in sections 71-6726 and 71-6728 in an amount not to exceed twenty dollars, for testing as set forth in ~~subsections (4) and (5)~~ subsection (4) of section 71-6725 in an amount not to exceed twenty dollars, and for competency assessment as set forth in subsection (3) of such section when conducted by the department in an amount not to exceed five dollars. The fees shall be used to carry out the purposes of the Medication Aide Act. The fees received pursuant to the act shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. The fees are nonrefundable. Such fund shall be used by the department for the purpose of administering the act as provided in this section.

Sec. 105. Section 81-649, Reissue Revised Statutes of Nebraska, is amended to read:

81-649. Sections 81-642 to 81-650 shall not be deemed to compel any individual to submit to any medical examination or supervision by the department, any of its authorized representatives, or an approved researcher. No person who seeks information or obtains registry data pursuant to such sections or sections 81-663 to 81-675 shall contact a patient on the registry or such patient's family without first obtaining the permission of a physician actively involved in the care of such patient unless the registry has first obtained the permission of such patient or patient's family. The registry shall coordinate its activities with the person desiring such contact and may authorize the person desiring such contact to perform these contacts under the direction of the registry.

Sec. 106. Section 81-666, Reissue Revised Statutes of Nebraska, is amended to read:

81-666. The department may approve an individual or entity to be an approved researcher upon application and proof satisfactory to the department that the applicant is a qualified researcher, that the data will be used for bona fide scientific or medical research for prevention, cure, or control of certain diseases or injuries, and that the applicant will maintain the confidentiality and security of data obtained. The application shall contain, but not be limited to, the following information:

(1) The qualifications of the applicant and of the principal investigator, if other than the applicant, including education, experience, prior publications, and recommendations of professional colleagues who have knowledge and experience of scientific or medical research;

(2) The purpose of the research project, a summary of the project, and the anticipated time of completion of such project;

(3) The location where the research project will be conducted and the equipment, personnel, and other resources available to the applicant to carry out the project;

(4) The identity of the individual or entity funding the research project, a description of the availability of funds for the research project, and any conditions on the receipt or continuation of such funding;

(5) The specific data requested and a description of the use to be made of such data and, if patient-identifying data is requested, a substantiation of the need for access to such patient-identifying data;

(6) A description of the measures to be taken to secure the data and maintain the confidentiality of such data during the research project, for disposal of the data upon completion of the study, and to assure that the results of the study will not divulge or make public information that will disclose the identity of any individual patient;

(7) If contact with a patient or patient's family is planned or expected, substantiation of the need for such contact and a description of the method to be used to obtain permission from the patient's physician such patient or patient's family for such contact; and

(8) Such additional information as the department determines to be necessary to assure that release of data to the applicant is appropriate and will further the purpose of sections 81-663 to 81-675 or the laws governing the specific registry.

Sec. 107. Section 81-673, Reissue Revised Statutes of Nebraska, is amended to read:

81-673. Nothing in sections 81-663 to 81-675 shall be deemed to compel any individual to submit to any medical examination or supervision by the department, any of its authorized representatives, or an approved researcher. No person who seeks information or obtains registry data pursuant to such sections shall contact a patient on the registry or such patient's family without first obtaining the permission of a physician actively involved in the care of such patient unless the registry has first obtained the permission of such patient or patient's family. The registry shall coordinate its activities with the person desiring such contact and may authorize the person desiring such contact to perform these contacts under the direction of the registry.

Sec. 108. Section 81-6,105, Revised Statutes Supplement, 2001, is amended to read:

81-6,105. Nothing in the Parkinson's Disease Registry Act shall be deemed to compel any individual to submit to any medical examination or supervision by the department, any of its authorized representatives, or an approved researcher. No person who seeks information or obtains registry data pursuant to the act shall contact a patient on the registry or such patient's family without first obtaining the permission of a physician actively involved in the care of such patient unless the registry has first obtained the permission of such patient or patient's family. The registry shall coordinate its activities with the person desiring such contact and may authorize the person desiring such contact to perform these contacts under the direction of the registry.

Sec. 109. This act becomes operative on January 1, 2003.

Sec. 110. Original sections 46-1222, 46-1225, 46-1235.02, 71-149, 71-161.05, 71-1,155, 71-1,162, 71-1,193, 71-1,195.01, 71-1,206.31, 71-1,228, 71-1,280, 71-1,292, 71-1,294, 71-1,315, 71-1,321, 71-1,326, 71-1,330, 71-397, 71-3,107, 71-3,108, 71-3,112, 71-3,115, 71-3,117, 71-1326, 71-1354, 71-1757, 71-1779, 71-1782, 71-1788, 71-3503, 71-3508.03, 71-3517, 71-3709, 71-4301, 71-4302, 71-4305, 71-4702.01, 71-4711, 71-4716, 71-6302, 71-6303, 71-6310.02, 81-649, 81-666, and 81-673, Reissue Revised Statutes of Nebraska, sections 71-131, 71-139, 71-161.09, 71-174.01, 71-175.01, 71-179.01, 71-185, 71-1,107.25, 71-1,132.11, 71-1,132.20, 71-1,144.01, 71-1,165, 71-1,234, 71-341, 71-377, 71-382, 71-3,179, 71-3,196, 71-3,197, 71-3,198, 71-3,202, 71-3,205, 71-3,206, 71-1718.02, 71-1722, 71-1724 to 71-1724.02, 71-1730, 71-1735, 71-1755, 71-3507, 71-3515.01, 71-3515.02, 71-3710, 71-5179, 71-5206.01, 71-6053, 71-6054, 71-6060, 71-6067, 71-6327, 71-6725, and 71-6734, Revised Statutes Supplement, 2000, and sections 71-101, 71-110 to 71-112, 71-161.10, 71-1,136.01, 71-2802, 71-2815, 71-2823, 71-3519, 71-5178, 71-5308, 71-6103, 71-6113, 71-6115, 71-6321, and 81-6,105, Revised Statutes Supplement, 2001, are repealed.

Sec. 111. The following sections are outright repealed: Sections 71-1,144.03, 71-3,109 to 71-3,111, 71-3,113, 71-3,114, 71-3,116, 71-3,118, 71-1347, and 71-1349 to 71-1353, Reissue Revised Statutes of Nebraska, sections 71-1,144.04, 71-3,199 to 71-3,201, 71-3,203, 71-3,204, and 71-3,207,

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Revised Statutes Supplement, 2000, and section 71-1,144.05, Revised Statutes Supplement, 2001.