

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 344

Introduced by Albrecht, 17; at the request of the Governor.

Read first time January 12, 2017

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health and welfare; to amend
2 sections 28-401, 38-319, 38-321, 38-2104, 38-2117, 38-2122, 38-2123,
3 38-2124, 38-2125, 38-2826.01, 44-772, 44-776, 44-777, 44-793,
4 71-423, and 71-430, Reissue Revised Statutes of Nebraska, and
5 sections 68-1017.02, 71-401, 71-403, 71-413, 71-2411, 71-2445, and
6 77-2704.12, Revised Statutes Cumulative Supplement, 2016; to change
7 credentialing provisions relating to mental health and substance use
8 disorders under the Health Care Facility Licensure Act and the
9 Uniform Credentialing Act; to provide for mental health substance
10 abuse centers; to define and redefine terms; to harmonize
11 provisions; and to repeal the original sections.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-401, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-401 As used in the Uniform Controlled Substances Act, unless the
4 context otherwise requires:

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

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

12 (3) Administration means the Drug Enforcement Administration of the
13 United States Department of Justice;

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

21 (5) Counterfeit substance means a controlled substance which, or the
22 container or labeling of which, without authorization, bears the
23 trademark, trade name, or other identifying mark, imprint, number, or
24 device, or any likeness thereof, of a manufacturer, distributor, or
25 dispenser other than the person or persons who in fact manufactured,
26 distributed, or dispensed such substance and which thereby falsely
27 purports or is represented to be the product of, or to have been
28 distributed by, such other manufacturer, distributor, or dispenser;

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

30 (7) Division of Drug Control means the personnel of the Nebraska
31 State Patrol who are assigned to enforce the Uniform Controlled

1 Substances Act;

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

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

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

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

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

21 (13) Marijuana means all parts of the plant of the genus cannabis,
22 whether growing or not, the seeds thereof, and every compound,
23 manufacture, salt, derivative, mixture, or preparation of such plant or
24 its seeds, but does not include the mature stalks of such plant, hashish,
25 tetrahydrocannabinols extracted or isolated from the plant, fiber
26 produced from such stalks, oil or cake made from the seeds of such plant,
27 any other compound, manufacture, salt, derivative, mixture, or
28 preparation of such mature stalks, the sterilized seed of such plant
29 which is incapable of germination, or cannabidiol obtained pursuant to
30 sections 28-463 to 28-468. When the weight of marijuana is referred to in
31 the Uniform Controlled Substances Act, it means its weight at or about

1 the time it is seized or otherwise comes into the possession of law
2 enforcement authorities, whether cured or uncured at that time. When
3 industrial hemp as defined in section 2-5701 is in the possession of a
4 person as authorized under section 2-5701, it is not considered marijuana
5 for purposes of the Uniform Controlled Substances Act;

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

23 (15) Narcotic drug means any of the following, whether produced
24 directly or indirectly by extraction from substances of vegetable origin,
25 independently by means of chemical synthesis, or by a combination of
26 extraction and chemical synthesis: (a) Opium, opium poppy and poppy
27 straw, coca leaves, and opiates; (b) a compound, manufacture, salt,
28 derivative, or preparation of opium, coca leaves, or opiates; or (c) a
29 substance and any compound, manufacture, salt, derivative, or preparation
30 thereof which is chemically equivalent to or identical with any of the
31 substances referred to in subdivisions (a) and (b) of this subdivision,

1 except that the words narcotic drug as used in the Uniform Controlled
2 Substances Act does not include decocainized coca leaves or extracts of
3 coca leaves, which extracts do not contain cocaine or ecgonine, or
4 isoquinoline alkaloids of opium;

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

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

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

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

17 (20) Practitioner means a physician, a physician assistant, a
18 dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a
19 certified nurse midwife, a certified registered nurse anesthetist, a
20 nurse practitioner, a scientific investigator, a pharmacy, a hospital, or
21 any other person licensed, registered, or otherwise permitted to
22 distribute, dispense, prescribe, conduct research with respect to, or
23 administer a controlled substance in the course of practice or research
24 in this state, including an emergency medical service as defined in
25 section 38-1207;

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

28 (22) Immediate precursor means a substance which is the principal
29 compound commonly used or produced primarily for use and which is an
30 immediate chemical intermediary used or likely to be used in the
31 manufacture of a controlled substance, the control of which is necessary

1 to prevent, curtail, or limit such manufacture;

2 (23) State means the State of Nebraska;

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

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

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

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

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

25 (29) Imitation controlled substance means a substance which is not a
26 controlled substance or controlled substance analogue but which, by way
27 of express or implied representations and consideration of other relevant
28 factors including those specified in section 28-445, would lead a
29 reasonable person to believe the substance is a controlled substance or
30 controlled substance analogue. A placebo or registered investigational
31 drug manufactured, distributed, possessed, or delivered in the ordinary

1 course of practice or research by a health care professional shall not be
2 deemed to be an imitation controlled substance;

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

15 (b) Controlled substance analogue does not include (i) a controlled
16 substance, (ii) any substance generally recognized as safe and effective
17 within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
18 301 et seq., as such act existed on January 1, 2014, (iii) any substance
19 for which there is an approved new drug application, or (iv) with respect
20 to a particular person, any substance if an exemption is in effect for
21 investigational use for that person, under section 505 of the Federal
22 Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on
23 January 1, 2014, to the extent conduct with respect to such substance is
24 pursuant to such exemption;

25 (31) Anabolic steroid means any drug or hormonal substance,
26 chemically and pharmacologically related to testosterone (other than
27 estrogens, progestins, and corticosteroids), that promotes muscle growth
28 and includes any controlled substance in Schedule III(d) of section
29 28-405. Anabolic steroid does not include any anabolic steroid which is
30 expressly intended for administration through implants to cattle or other
31 nonhuman species and has been approved by the Secretary of Health and

1 Human Services for such administration, but if any person prescribes,
2 dispenses, or distributes such a steroid for human use, such person shall
3 be considered to have prescribed, dispensed, or distributed an anabolic
4 steroid within the meaning of this subdivision;

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

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

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

14 (35) Registrant means any person who has a controlled substances
15 registration issued by the state or the administration;

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

20 (37) Signature means the name, word, or mark of a person written in
21 his or her own hand with the intent to authenticate a writing or other
22 form of communication or a digital signature which complies with section
23 86-611 or an electronic signature;

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

28 (39) Electronic signature has the definition found in section
29 86-621;

30 (40) Electronic transmission means transmission of information in
31 electronic form. Electronic transmission includes computer-to-computer

1 transmission or computer-to-facsimile transmission;

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

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

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

13 (44) Lookalike substance means a product or substance, not
14 specifically designated as a controlled substance in section 28-405, that
15 is either portrayed in such a manner by a person to lead another person
16 to reasonably believe that it produces effects on the human body that
17 replicate, mimic, or are intended to simulate the effects produced by a
18 controlled substance or that possesses one or more of the following
19 indicia or characteristics:

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

24 (b) The name or packaging of the product or substance uses images or
25 labels suggesting that it is a controlled substance or produces effects
26 on the human body that replicate or mimic those produced by a controlled
27 substance;

28 (c) The product or substance is marketed or advertised for a
29 particular use or purpose and the cost of the product or substance is
30 disproportionately higher than other products or substances marketed or
31 advertised for the same or similar use or purpose;

1 (d) The packaging or label on the product or substance contains
2 words or markings that state or suggest that the product or substance is
3 in compliance with state and federal laws regulating controlled
4 substances;

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

8 (f) The owner or person in control of the product or substance makes
9 a verbal or written statement suggesting or implying that the product or
10 substance is a synthetic drug or that consumption of the product or
11 substance will replicate or mimic effects on the human body to those
12 effects commonly produced through use or consumption of a controlled
13 substance;

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

18 (h) The product or substance contains a chemical or chemical
19 compound that does not have a legitimate relationship to the use or
20 purpose claimed by the seller, distributor, packer, or manufacturer of
21 the product or substance or indicated by the product name, appearing on
22 the product's packaging or label or depicted in advertisement of the
23 product or substance.

24 Sec. 2. Section 38-319, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 38-319 The department, with the recommendation of the board, may
27 issue a license based on licensure in another jurisdiction to an
28 individual who (1) meets the requirements of the Alcohol and Drug
29 Counseling Practice Act, (2) meets or substantially equivalent
30 requirements as determined by the department, with the recommendation of
31 the board, or (3) holds a license or certification that is current in

1 another jurisdiction that authorizes the applicant to provide alcohol and
2 drug counseling, has at least two hundred seventy hours of alcohol and
3 drug counseling education, has at least three years of full-time alcohol
4 and drug counseling practice following initial licensure or certification
5 in the other jurisdiction and has passed an alcohol and drug counseling
6 examination.

7 Sec. 3. Section 38-321, Reissue Revised Statutes of Nebraska, is
8 amended to read:

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

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

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

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

22 ~~(4) (d)~~ The contents and methods of distribution of disclosure
23 statements to clients of alcohol and drug counselors; and

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

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

30 Sec. 4. Section 38-2104, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 38-2104 (1) Approved educational program means a program of
2 education and training accredited by an agency listed in subsection (2)
3 of this section or approved by the board. Such approval may be based on
4 the program's accreditation by an accrediting agency with requirements
5 similar to an agency listed in subsection (2) of this section or on
6 standards established by the board in the manner and form provided in
7 section 38-133.

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

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

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

14 (c) The Council on Rehabilitation Education;

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

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

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

21 38-2117 Mental health program means an approved educational program
22 in a field such as, but not limited to, social work, professional
23 counseling, marriage and family therapy, human development, psychology,
24 or family relations, the content of which contains an emphasis on
25 therapeutic mental health and course work in psychotherapy and the
26 assessment of mental disorders.

27 Sec. 6. Section 38-2122, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 38-2122 A person shall be qualified to be a licensed mental health
30 practitioner if he or she:

31 (1) Has received a master's or doctorate degree, a doctoral degree,

1 or the equivalent of a master's degree, as determined by the board, that
2 consists of course work and training which was primarily therapeutic
3 mental health in content and included a practicum or internship and was
4 from an approved educational program. Practicums or internships completed
5 after September 1, 1995, must include a minimum of three hundred clock
6 hours of direct client contact under the supervision of a qualified
7 physician, a licensed psychologist, or a licensed mental health
8 practitioner;

9 (2) Has successfully completed three thousand hours of supervised
10 experience in mental health practice of which fifteen hundred hours were
11 in direct client contact in a setting where mental health services were
12 being offered and the remaining fifteen hundred hours included, but were
13 not limited to, review of client records, case conferences, direct
14 observation, and video observation. For purposes of this subdivision,
15 supervised means monitored by a qualified physician, a licensed clinical
16 psychologist, or a certified master social worker, certified professional
17 counselor, or marriage and family therapist qualified for certification
18 on September 1, 1994, for any hours completed before such date or by a
19 qualified physician, a psychologist licensed to engage in the practice of
20 psychology, or a licensed mental health practitioner for any hours
21 completed after such date, including evaluative face-to-face contact for
22 a minimum of one hour per week. Such three thousand hours shall be
23 accumulated after completion of the master's degree, doctoral degree, or
24 equivalent of the master's or doctorate degree and during the five years
25 immediately preceding the application for licensure; and

26 (3) Has satisfactorily passed an examination approved by the board.
27 An individual who by reason of educational background is eligible for
28 certification as a certified master social worker, a certified
29 professional counselor, or a certified marriage and family therapist
30 shall take and pass a certification examination approved by the board
31 before becoming licensed as a mental health practitioner.

1 Sec. 7. Section 38-2123, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-2123 (1) A person who needs to obtain the required three thousand
4 hours of supervised experience in mental health practice as specified in
5 section 38-2122 to qualify for a mental health practitioner license shall
6 obtain a provisional mental health practitioner license. To qualify for a
7 provisional mental health practitioner license, such person shall:

8 (a) Have a master's ~~or doctorate~~ degree, a doctoral degree, or the
9 equivalent of a master's degree, as determined by the board, that
10 consists of course work and training which was primarily therapeutic
11 mental health in content and included a practicum or internship and was
12 from a mental health ~~an approved educational~~ program as specified in such
13 section 38-2122;

14 (b) Apply prior to earning the three thousand hours of supervised
15 experience; and

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

17 (2) The rules and regulations approved by the board and adopted and
18 promulgated by the department shall not require that the applicant have a
19 supervisor in place at the time of application for a provisional mental
20 health practitioner license. The applicant shall provide the department
21 with the name and license number of his or her supervisor within thirty
22 days after beginning employment under the provisional mental health
23 practitioner license.

24 (3) (2) A provisional mental health practitioner license shall
25 expire upon receipt of licensure as a mental health practitioner or five
26 years after the date of issuance, whichever comes first.

27 (4) (3) A person who holds a provisional mental health practitioner
28 license shall inform all clients that he or she holds a provisional
29 license and is practicing mental health under supervision and shall
30 identify the supervisor. Failure to make such disclosure is a ground for
31 discipline as set forth in section 38-2139.

1 Sec. 8. Section 38-2124, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-2124 (1) No person shall hold himself or herself out as an
4 independent mental health practitioner unless he or she is licensed as
5 such by the department. A person shall be qualified to be a licensed
6 independent mental health practitioner if he or she:

7 (a)(i)(A) Graduated with a master's or doctoral degree from an
8 educational program which is accredited, at the time of graduation or
9 within four years after graduation, by the Council for Accreditation of
10 Counseling and Related Educational Programs, the Commission on
11 Accreditation for Marriage and Family Therapy Education, or the Council
12 on Social Work Education or (B) graduated with a master's or doctoral
13 degree from an educational program deemed by the board to be equivalent
14 in didactic content and supervised clinical experience to an accredited
15 program;

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

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

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

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

31 (iii) Has seven thousand hours of experience obtained in a period of

1 not less than ten years and supervised by a licensed physician, a
2 licensed psychologist, or a licensed independent mental health
3 practitioner, one-half of which is comprised of experience with clients
4 diagnosed under the major mental illness or disorder category.

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

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

12 Sec. 9. Section 38-2125, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 38-2125 The department, with the recommendation of the board, may
15 issue a license based on licensure in another jurisdiction to an
16 individual who (1) meets the licensure requirements of the Mental Health
17 Practice Act or substantially equivalent requirements as determined by
18 the department, with the recommendation of the board, or (2) has been in
19 active practice in the appropriate discipline for at least five years
20 following initial licensure or certification in another jurisdiction and
21 has passed the Nebraska jurisprudence examination.

22 Sec. 10. Section 38-2826.01, Reissue Revised Statutes of Nebraska,
23 is amended to read:

24 38-2826.01 Long-term care facility means an intermediate care
25 facility, an intermediate care facility for persons with developmental
26 disabilities, a long-term care hospital, a mental health substance use
27 treatment center, a nursing facility, or a skilled nursing facility, as
28 such terms are defined in the Health Care Facility Licensure Act.

29 Sec. 11. Section 44-772, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 44-772 Mental health substance use ~~Substance abuse~~ treatment center

1 shall mean a facility ~~an institution~~ licensed as a mental health
2 substance use ~~abuse~~ treatment center by the Department of Health and
3 Human Services and defined in section 71-423 ~~71-430~~, ~~which provides a~~
4 ~~program for the inpatient or outpatient treatment of alcoholism pursuant~~
5 ~~to a written treatment plan approved and monitored by a physician and~~
6 ~~which is affiliated with a hospital under a contractual agreement with an~~
7 ~~established system for patient referral.~~

8 Sec. 12. Section 44-776, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 44-776 Primary treatment shall mean inpatient treatment rendered in
11 a structured and scheduled setting to prevent further ingestion of
12 alcoholic beverages, to relieve the pain of the withdrawal syndrome, and
13 to provide intensive therapy or rehabilitation, when such treatment is
14 rendered in a hospital or a mental health substance use ~~abuse~~ treatment
15 center which is certified or accredited to render such care.

16 Sec. 13. Section 44-777, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 44-777 Outpatient treatment shall mean counseling and therapy
19 provided on a nonresidential basis when such treatment is rendered in or
20 through a hospital, ~~a substance abuse treatment center,~~ or an outpatient
21 program which is certified or accredited to render such care.

22 Sec. 14. Section 44-793, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 44-793 (1) On or after January 1, 2000, notwithstanding section
25 44-3,131, any health insurance plan delivered, issued, or renewed in this
26 state (a) if coverage is provided for treatment of mental health
27 conditions other than alcohol or substance abuse, (i) shall not establish
28 any rate, term, or condition that places a greater financial burden on an
29 insured for access to treatment for a serious mental illness than for
30 access to treatment for a physical health condition and (ii) if an out-
31 of-pocket limit is established for physical health conditions, shall

1 apply such out-of-pocket limit as a single comprehensive out-of-pocket
2 limit for both physical health conditions and mental health conditions,
3 or (b) if no coverage is to be provided for treatment of mental health
4 conditions, shall provide clear and prominent notice of such noncoverage
5 in the plan.

6 (2) If a health insurance plan provides coverage for serious mental
7 illness, the health insurance plan shall cover health care rendered for
8 treatment of serious mental illness (a) by a mental health professional,
9 (b) by a person authorized by the rules and regulations of the Department
10 of Health and Human Services to provide treatment for mental illness, (c)
11 in a mental health substance use treatment center as defined in section
12 71-423, or (d) in any other health care facility licensed under the
13 Health Care Facility Licensure Act that provides a program for the
14 treatment of a mental health condition pursuant to a written plan. The
15 issuer of a health insurance plan may require a health care provider
16 under this subsection to enter into a contract as a condition of
17 providing benefits.

18 (3) The Director of Insurance may disapprove any plan that the
19 director determines to be inconsistent with the purposes of this section.

20 Sec. 15. Section 68-1017.02, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 68-1017.02 (1)(a) The Department of Health and Human Services shall
23 apply for and utilize to the maximum extent possible, within limits
24 established by the Legislature, any and all appropriate options available
25 to the state under the federal Supplemental Nutrition Assistance Program
26 and regulations adopted under such program to maximize the number of
27 Nebraska residents being served under such program within such limits.
28 The department shall seek to maximize federal funding for such program
29 and minimize the utilization of General Funds for such program and shall
30 employ the personnel necessary to determine the options available to the
31 state and issue the report to the Legislature required by subdivision (b)

1 of this subsection.

2 (b) The department shall submit electronically an annual report to
3 the Health and Human Services Committee of the Legislature by December 1
4 on efforts by the department to carry out the provisions of this
5 subsection. Such report shall provide the committee with all necessary
6 and appropriate information to enable the committee to conduct a
7 meaningful evaluation of such efforts. Such information shall include,
8 but not be limited to, a clear description of various options available
9 to the state under the federal Supplemental Nutrition Assistance Program,
10 the department's evaluation of and any action taken by the department
11 with respect to such options, the number of persons being served under
12 such program, and any and all costs and expenditures associated with such
13 program.

14 (c) The Health and Human Services Committee of the Legislature,
15 after receipt and evaluation of the report required in subdivision (b) of
16 this subsection, shall issue recommendations to the department on any
17 further action necessary by the department to meet the requirements of
18 this section.

19 (2)(a) The department shall develop a state outreach plan to promote
20 access by eligible persons to benefits of the Supplemental Nutrition
21 Assistance Program. The plan shall meet the criteria established by the
22 Food and Nutrition Service of the United States Department of Agriculture
23 for approval of state outreach plans. The Department of Health and Human
24 Services may apply for and accept gifts, grants, and donations to develop
25 and implement the state outreach plan.

26 (b) For purposes of developing and implementing the state outreach
27 plan, the department shall partner with one or more counties or nonprofit
28 organizations. If the department enters into a contract with a nonprofit
29 organization relating to the state outreach plan, the contract may
30 specify that the nonprofit organization is responsible for seeking
31 sufficient gifts, grants, or donations necessary for the development and

1 implementation of the state outreach plan and may additionally specify
2 that any costs to the department associated with the award and management
3 of the contract or the implementation or administration of the state
4 outreach plan shall be paid out of private or federal funds received for
5 development and implementation of the state outreach plan.

6 (c) The department shall submit the state outreach plan to the Food
7 and Nutrition Service of the United States Department of Agriculture for
8 approval on or before August 1, 2011, and shall request any federal
9 matching funds that may be available upon approval of the state outreach
10 plan. It is the intent of the Legislature that the State of Nebraska and
11 the Department of Health and Human Services use any additional public or
12 private funds to offset costs associated with increased caseload
13 resulting from the implementation of the state outreach plan.

14 (d) The department shall be exempt from implementing or
15 administering a state outreach plan under this subsection, but not from
16 developing such a plan, if it does not receive private or federal funds
17 sufficient to cover the department's costs associated with the
18 implementation and administration of the plan, including any costs
19 associated with increased caseload resulting from the implementation of
20 the plan.

21 (3)(a)(i) On or before October 1, 2011, the department shall create
22 a TANF-funded program or policy that, in compliance with federal law,
23 establishes categorical eligibility for federal food assistance benefits
24 pursuant to the Supplemental Nutrition Assistance Program to maximize the
25 number of Nebraska residents being served under such program in a manner
26 that does not increase the current gross income eligibility limit.

27 (ii) Such TANF-funded program or policy shall eliminate all asset
28 limits for eligibility for federal food assistance benefits, except that
29 the total of liquid assets which includes cash on hand and funds in
30 personal checking and savings accounts, money market accounts, and share
31 accounts shall not exceed twenty-five thousand dollars pursuant to the

1 Supplemental Nutrition Assistance Program, as allowed under federal law
2 and under 7 C.F.R. 273.2(j)(2).

3 (iii) This subsection becomes effective only if the department
4 receives funds pursuant to federal participation that may be used to
5 implement this subsection.

6 (b) For purposes of this subsection:

7 (i) Federal law means the federal Food and Nutrition Act of 2008, 7
8 U.S.C. 2011 et seq., and regulations adopted under the act; and

9 (ii) TANF means the federal Temporary Assistance for Needy Families
10 program established in 42 U.S.C. 601 et seq.

11 (4)(a) Within the limits specified in this subsection, the State of
12 Nebraska opts out of the provision of the federal Personal Responsibility
13 and Work Opportunity Reconciliation Act of 1996, as such act existed on
14 January 1, 2009, that eliminates eligibility for the Supplemental
15 Nutrition Assistance Program for any person convicted of a felony
16 involving the possession, use, or distribution of a controlled substance.

17 (b) A person shall be ineligible for Supplemental Nutrition
18 Assistance Program benefits under this subsection if he or she (i) has
19 had three or more felony convictions for the possession or use of a
20 controlled substance or (ii) has been convicted of a felony involving the
21 sale or distribution of a controlled substance or the intent to sell or
22 distribute a controlled substance. A person with one or two felony
23 convictions for the possession or use of a controlled substance shall
24 only be eligible to receive Supplemental Nutrition Assistance Program
25 benefits under this subsection if he or she is participating in or, since
26 the date of conviction, has completed a ~~state-licensed or nationally~~
27 ~~accredited~~ substance abuse treatment program that is nationally
28 accredited or provided in a mental health substance use treatment center
29 licensed under the Health Care Facility Licensure Act since the date of
30 ~~conviction.~~ The determination of such participation or completion shall
31 be made by the treatment provider administering the program.

1 Sec. 16. Section 71-401, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 71-401 Sections 71-401 to 71-474 and sections 20 and 22 of this act
4 shall be known and may be cited as the Health Care Facility Licensure
5 Act.

6 Sec. 17. Section 71-403, Revised Statutes Cumulative Supplement,
7 2016, is amended to read:

8 71-403 For purposes of the Health Care Facility Licensure Act,
9 unless the context otherwise requires, the definitions found in sections
10 71-404 to 71-431 and section 20 of this act shall apply.

11 Sec. 18. Section 71-413, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 71-413 Health care facility means an ambulatory surgical center, an
14 assisted-living facility, a center or group home for the developmentally
15 disabled, a critical access hospital, a general acute hospital, a health
16 clinic, a hospital, an intermediate care facility, an intermediate care
17 facility for persons with developmental disabilities, a long-term care
18 hospital, a mental health substance use treatment center, a nursing
19 facility, a pharmacy, a psychiatric or mental hospital, a public health
20 clinic, a rehabilitation hospital, or a skilled nursing facility,~~or a~~
21 ~~substance abuse treatment center.~~

22 Sec. 19. Section 71-423, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 71-423 Mental health substance use treatment center means a facility
25 where shelter, food, and counseling, supervision, diagnosis, treatment,
26 care, rehabilitation, assessment, or related services professionally
27 directed are provided for a period of more than twenty-four consecutive
28 hours to persons residing at such facility who have a mental illness
29 ~~disease, disorder,~~ or substance use disorder or both, with the intention
30 of reducing or ameliorating the disorder or disorders or the effects of
31 the disorder or disorders ~~disability.~~

1 Sec. 20. Mental illness means a wide range of mental health
2 disorders that affect mood, thinking, and behavior and can result in
3 significantly impaired judgment, behavior, capacity to recognize reality,
4 or ability to address basic life necessities and requires care and
5 treatment for health, safety, or recovery of the individual or for the
6 safety of others.

7 Sec. 21. Section 71-430, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 71-430 Substance use disorder means the recurrent use of alcohol,
10 drugs, or both causing clinically and functionally significant
11 impairment, such as health problems, disability, and failure to meet
12 major responsibilities at work, school, or home. Substance use disorders
13 may be designated as mild, moderate, or severe to indicate the level of
14 severity, which is determined by the number of diagnostic criteria met by
15 an individual.

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

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

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

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

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

31 Sec. 22. A health care facility applying for a license as a mental

1 health substance use treatment center shall designate whether the license
2 is to be issued to provide services for mental health disorders only, for
3 substance use disorders only, or for both mental health and substance use
4 disorders. A license issued to provide services for mental health
5 disorders only permits the facility to admit only persons with mental
6 health disorders. A license issued to provide services for substance use
7 disorders only permits the facility to admit only persons with substance
8 use disorders. A license issued to provide services for both mental
9 health and substance use disorders permits the facility to admit persons
10 with mental health disorders, substance use disorders, or both mental
11 health disorders and substance use disorders.

12 Sec. 23. Section 71-2411, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 71-2411 For purposes of the Emergency Box Drug Act:

15 (1) Authorized personnel means any medical doctor, doctor of
16 osteopathy, registered nurse, licensed practical nurse, nurse
17 practitioner, pharmacist, or physician assistant;

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

19 (3) Drug means any prescription drug or device or legend drug or
20 device defined under section 38-2841, any nonprescription drug as defined
21 under section 38-2829, any controlled substance as defined under section
22 28-405, or any device as defined under section 38-2814;

23 (4) Emergency box drugs means drugs required to meet the immediate
24 therapeutic needs of patients when the drugs are not available from any
25 other authorized source in time to sufficiently prevent risk of harm to
26 such patients by the delay resulting from obtaining such drugs from such
27 other authorized source;

28 (5) Long-term care facility means an intermediate care facility, an
29 intermediate care facility for persons with developmental disabilities, a
30 long-term care hospital, a mental health substance use treatment center,
31 a nursing facility, or a skilled nursing facility, as such terms are

1 defined in the Health Care Facility Licensure Act;

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

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

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

10 Sec. 24. Section 71-2445, Revised Statutes Cumulative Supplement,
11 2016, is amended to read:

12 71-2445 For purposes of the Automated Medication Systems Act:

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

16 (2) Automated medication system means a mechanical system that
17 performs operations or activities, other than compounding,
18 administration, or other technologies, relative to storage and packaging
19 for dispensing or distribution of medications and that collects,
20 controls, and maintains all transaction information and includes, but is
21 not limited to, a prescription medication distribution machine or an
22 automated medication distribution machine. An automated medication system
23 may only be used in conjunction with the provision of pharmacist care;

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

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

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

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

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

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

16 (9) Pharmacist care means the provision by a pharmacist of
17 medication therapy management, with or without the dispensing of drugs or
18 devices, intended to achieve outcomes related to the cure or prevention
19 of a disease, elimination or reduction of a patient's symptoms, or
20 arresting or slowing of a disease process;

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

27 (11) Practice of pharmacy means (a) the interpretation, evaluation,
28 and implementation of a medical order, (b) the dispensing of drugs and
29 devices, (c) drug product selection, (d) the administration of drugs or
30 devices, (e) drug utilization review, (f) patient counseling, (g) the
31 provision of pharmaceutical care, and (h) the responsibility for

1 compounding and labeling of dispensed or repackaged drugs and devices,
2 proper and safe storage of drugs and devices, and maintenance of proper
3 records. The active practice of pharmacy means the performance of the
4 functions set out in this subdivision by a pharmacist as his or her
5 principal or ordinary occupation;

6 (12) Practitioner means a certified registered nurse anesthetist, a
7 certified nurse midwife, a dentist, an optometrist, a nurse practitioner,
8 a physician assistant, a physician, a podiatrist, or a veterinarian;

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

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

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

21 Sec. 25. Section 77-2704.12, Revised Statutes Cumulative Supplement,
22 2016, is amended to read:

23 77-2704.12 (1) Sales and use taxes shall not be imposed on the gross
24 receipts from the sale, lease, or rental of and the storage, use, or
25 other consumption in this state of purchases by (a) any nonprofit
26 organization created exclusively for religious purposes, (b) any
27 nonprofit organization providing services exclusively to the blind, (c)
28 any nonprofit private educational institution established under sections
29 79-1601 to 79-1607, (d) any regionally or nationally accredited,
30 nonprofit, privately controlled college or university with its primary
31 campus physically located in Nebraska, (e) any nonprofit (i) hospital,

1 (ii) health clinic when one or more hospitals or the parent corporations
2 of the hospitals own or control the health clinic for the purpose of
3 reducing the cost of health services or when the health clinic receives
4 federal funds through the United States Public Health Service for the
5 purpose of serving populations that are medically underserved, (iii)
6 skilled nursing facility, (iv) intermediate care facility, (v) assisted-
7 living facility, (vi) intermediate care facility for persons with
8 developmental disabilities, (vii) nursing facility, (viii) home health
9 agency, (ix) hospice or hospice service, (x) respite care service, (xi)
10 mental health substance use treatment center licensed under the Health
11 Care Facility Licensure Act, or (xii) ~~substance abuse treatment~~ center
12 ~~licensed under the Health Care Facility Licensure Act, or~~ (xiii) center
13 for independent living as defined in 29 U.S.C. 796a, (f) any nonprofit
14 licensed residential child-caring agency, (g) any nonprofit licensed
15 child-placing agency, or (h) any nonprofit organization certified by the
16 Department of Health and Human Services to provide community-based
17 services for persons with developmental disabilities.

18 (2) Any organization listed in subsection (1) of this section shall
19 apply for an exemption on forms provided by the Tax Commissioner. The
20 application shall be approved and a numbered certificate of exemption
21 received by the applicant organization in order to be exempt from the
22 sales and use tax.

23 (3) The appointment of purchasing agents shall be recognized for the
24 purpose of altering the status of the construction contractor as the
25 ultimate consumer of building materials which are physically annexed to
26 the structure and which subsequently belong to the owner of the
27 organization or institution. The appointment of purchasing agents shall
28 be in writing and occur prior to having any building materials annexed to
29 real estate in the construction, improvement, or repair. The contractor
30 who has been appointed as a purchasing agent may apply for a refund of or
31 use as a credit against a future use tax liability the tax paid on

1 inventory items annexed to real estate in the construction, improvement,
2 or repair of a project for a licensed not-for-profit institution.

3 (4) Any organization listed in subsection (1) of this section which
4 enters into a contract of construction, improvement, or repair upon
5 property annexed to real estate without first issuing a purchasing agent
6 authorization to a contractor or repairperson prior to the building
7 materials being annexed to real estate in the project may apply to the
8 Tax Commissioner for a refund of any sales and use tax paid by the
9 contractor or repairperson on the building materials physically annexed
10 to real estate in the construction, improvement, or repair.

11 (5) Any person purchasing, storing, using, or otherwise consuming
12 building materials in the performance of any construction, improvement,
13 or repair by or for any institution enumerated in subsection (1) of this
14 section which is licensed upon completion although not licensed at the
15 time of construction or improvement, which building materials are annexed
16 to real estate and which subsequently belong to the owner of the
17 institution, shall pay any applicable sales or use tax thereon. Upon
18 becoming licensed and receiving a numbered certificate of exemption, the
19 institution organized not for profit shall be entitled to a refund of the
20 amount of taxes so paid in the performance of such construction,
21 improvement, or repair and shall submit whatever evidence is required by
22 the Tax Commissioner sufficient to establish the total sales and use tax
23 paid upon the building materials physically annexed to real estate in the
24 construction, improvement, or repair.

25 Sec. 26. Original sections 28-401, 38-319, 38-321, 38-2104,
26 38-2117, 38-2122, 38-2123, 38-2124, 38-2125, 38-2826.01, 44-772, 44-776,
27 44-777, 44-793, 71-423, and 71-430, Reissue Revised Statutes of Nebraska,
28 and sections 68-1017.02, 71-401, 71-403, 71-413, 71-2411, 71-2445, and
29 77-2704.12, Revised Statutes Cumulative Supplement, 2016, are repealed.