

LEGISLATIVE BILL 342

Approved by the Governor February 24, 1989

Introduced by Health and Human Services Committee,
Wesely, 26, Chairperson; Byars, 30;
Crosby, 29; Dierks, 40; Lynch, 13;
Schellpeper, 18

AN ACT relating to osteopathic medicine; to amend sections 21-2202, 44-513, 44-3103, 71-112.01, 71-139, 71-174, 71-178, 71-1,103, 71-1,105, 71-1,107.01, 71-1,107.06, 71-1,132.05, 71-1,132.06, 71-1,137, 71-1,138, 71-1,139, 71-1,139.01, 71-1,140, 71-1,141, 71-1,240, 71-2601, 71-3506, 71-5402, 71-5855, 81-642, 81-646, and 81-648, Reissue Revised Statutes of Nebraska, 1943, and sections 71-102, 71-107, 71-110, 71-111, 71-112, 71-131, 71-162, 71-1,279, 71-2017.01, 71-2802, 71-3503, 71-3505, and 71-3508, Revised Statutes Supplement, 1988; to redefine the practice of osteopathic medicine; to change certain license requirements; to change a provision relating to the scope of practice; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 21-2202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2202. As used in ~~sections 21-2201 to 21-2222~~ the Nebraska Professional Corporation Act, unless the context otherwise requires:

(1) Professional service shall mean any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which, except for the services of a real estate broker, prior to the passage of ~~sections 21-2201 to 21-2222~~ the act and by reason of law could not be performed by a corporation, including, but not limited to, personal services rendered by a certified public accountant, public accountant, dentist, ~~osteopath~~ osteopathic physician, physician and surgeon, veterinarian, real estate broker, associate real estate broker, real estate

salesperson, or attorney at law. For and for purposes of sections 21-2201 to 21-2222 the act, those professions pertaining to the diagnosis, care, and treatment of humans shall be considered to be of the same profession;

(2) Regulating board shall mean a board which is charged with the licensing and regulating of the practice or profession which the professional corporation is organized to render; and

(3) Professional corporation shall mean a corporation which is organized under sections 21-2201 to 21-2222 the act for the specific purpose of rendering professional service and which has as its shareholders only individuals who themselves are duly licensed or otherwise legally authorized within this state to render the same professional service as the corporation.

Sec. 2. That section 44-513, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-513. Whenever any insurer shall provide by contract, policy, certificate, or any other means whatsoever for a service, or for the partial or total reimbursement, payment, or cost of a service, to or on behalf of any of its policyholders, group policyholders, subscribers, or group subscribers; or any person or group of persons, which service may be legally performed by a person licensed in this state for the practice of osteopathy osteopathic medicine and surgery, chiropractic, optometry, psychology, dentistry, or podiatry, the person rendering such service or such policyholder, subscriber, or other person shall be entitled to such partial or total reimbursement, payment, or cost of such service, whether the service is performed by a duly licensed medical doctor or by a duly licensed osteopath osteopathic physician, chiropractor, optometrist, psychologist, dentist, or podiatrist. This section shall not limit the negotiation of preferred provider policies and contracts under sections 44-4101 to 44-4113.

Sec. 3. That section 44-3103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3103. As used in sections 44-3101 to 44-3112 the Nebraska Professional Association Mutual Insurance Company Act, unless the context otherwise requires:

(1) Professional association mutual insurance company shall mean any domestic insurance company licensed under sections 44-3101 to 44-3112 the act for

the purpose of making insurance as provided in sections 44-3104 and 44-3105. For the purposes of this subdivision, professional association shall mean any organization of individual professional practitioners who are required by this state to obtain a license or other legal authorization prior to performing a professional service, including, but not limited to, certified public accountants, public accountants, dentists, ~~osteopaths~~ osteopathic physicians, physicians and surgeons, veterinarians, ~~or and~~ attorneys at law;

(2) Director shall mean the Director of Insurance; and

(3) Member shall mean an individual belonging to an association as defined in subdivision (1) of this section and whose principal practice is located in this state.

Sec. 4. That section 71-102, Revised Statutes Supplement, 1988, be amended to read as follows:

71-102. (1) No person shall engage in the practice of medicine and surgery, athletic training, respiratory care, ~~osteopathy~~ osteopathic medicine, chiropractic, dentistry, dental hygiene, pharmacy, podiatry, optometry, massage therapy, physical therapy, audiology, speech-language pathology, embalming, funeral directing, psychology, or veterinary medicine and surgery, ~~as defined in the Uniform Licensing Law~~; unless such person ~~shall have obtained~~ has obtained a license from the Department of Health ~~a license~~ for that purpose.

(2) No person shall hold himself or herself out as a certified social worker or certified master social worker unless such person ~~shall have obtained~~ has obtained a certificate from the department ~~a certificate~~ for that purpose.

(3) No person shall hold himself or herself out as a certified professional counselor unless such person has obtained a certificate from the department ~~a certificate~~ for such purpose.

(4) No person shall hold himself or herself out as a certified nutritionist unless such person has obtained a certificate from the department ~~a certificate~~ for such purpose.

Sec. 5. That section 71-107, Revised Statutes Supplement, 1988, be amended to read as follows:

71-107. Every person licensed or certified under the Uniform Licensing Law to practice a profession shall keep such license or certificate displayed in the office or place in which he or she practices and place and keep placed, in a conspicuous place at each entrance

thereto, a sign, in intelligible lettering not less than one inch in height, containing the name of such person immediately followed by the recognized abbreviation indicating the professional degree, if any, held by such person. In addition to the foregoing, those persons licensed or certified to practice osteopathy osteopathic medicine, chiropractic, podiatry, optometry, audiology, speech-language pathology, dietetic and nutrition services, professional counseling, social work, massage therapy, or physical therapy shall cause to be placed upon such signs, in lettering of equal height, the word Osteopath Osteopathic Physician, Chiropractor, Podiatrist, Optometrist, Audiologist, Speech-Language Pathologist, Nutritionist, Professional Counselor, Social Worker, Massage Therapist, or Physical Therapist, as the case may be. The same wording shall be used in all signs, announcements, stationery, and advertisements of such licensees and certificate holders.

Sec. 6. That section 71-110, Revised Statutes Supplement, 1988, be amended to read as follows:

71-110. (1) The different licenses or certificates to practice a profession shall be renewed biennially, except as provided in sections 71-1,228, 71-1,263, 71-1,275, and 71-1,294, upon request of the licensee or certificate holder without examination. The biennial license or certificate 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. The biennial expiration date in the different professions shall be as follows: January, pharmacy and psychology; February, embalming and funeral directing; March, dentistry and dental hygiene; April, podiatry and veterinary medicine and surgery; May, athletic training; June, respiratory care; August, chiropractic and optometry; September, dietetics and nutrition, osteopathy osteopathic medicine, and professional counseling; October, medicine and surgery and social work; November, massage therapy and physical therapy; and 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 license or certificate, 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 amended, persons licensed or certified to practice the professions above named shall not be required to pay the renewal license or certificate fee.

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

(3) When an individual licensed or certified pursuant to the Uniform Licensing Law desires to have his or her license or certificate 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 licensee or certificate holder in writing of the acceptance or denial of the request to allow the license or certificate to be placed on inactive status. When the license or certificate is placed on inactive status, the licensee or certificate holder shall not engage in the practice of such profession. A license or certificate may remain on inactive status for an indefinite period of time. In order to move a license or certificate from inactive to active status, an individual shall complete the continuing education 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 license or certificate, the department shall notify each licensee or certificate holder by a letter addressed to him or her at his or her last place of residence as noted upon its records. Any licensee or certificate holder who fails to notify the department of his or her desire to let his or her license or certificate 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 license or certificate 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 license or certificate 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 license or certificate will be revoked in the manner prescribed in section 71-149.

(5) Any licensee or certificate holder who fails to renew his or her license or certificate may be reinstated upon the recommendation of the board of examiners for his or her profession and the payment of the renewal fees for the intervening time period between revocation and reinstatement if an application for reinstatement is made within one year of revocation.

(6) Any licensee or certificate holder who applies for reinstatement more than one year after revocation shall petition the board of examiners to recommend reinstatement as prescribed in section 71-161.05.

Sec. 7. That section 71-111, Revised Statutes Supplement, 1988, be amended to read as follows:

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, the State Board of Health shall appoint a board of examiners for each of the professions under the Uniform Licensing Law except osteopathy osteopathic medicine and surgery.

Sec. 8. That section 71-112, Revised Statutes Supplement, 1988, be amended to read as follows:

71-112. The boards of examiners provided in section 71-111 shall be designated as follows: For medicine and surgery and osteopathy osteopathic medicine and surgery, Examiners in Medicine and Surgery; for athletic training, Examiners in Athletic Training; for respiratory care, Examiners in Respiratory Care Practice; for chiropractic, Examiners in Chiropractic; for dentistry and dental hygiene, Examiners in Dentistry; for optometry, Examiners in Optometry; for massage therapy, Examiners in Massage Therapy; for physical therapy, Examiners in Physical Therapy; for pharmacy, Examiners in Pharmacy; for audiology and speech-language pathology, Examiners in Audiology and Speech-Language Pathology; for dietetic and nutrition services, Examiners in Dietetics and Nutrition; for social work, Examiners in Social Work; for professional counseling, Examiners in Professional Counseling; for embalming and funeral directing, Examiners in Embalming

and Funeral Directing; for podiatry, Examiners in Podiatry; for psychology, Examiners of Psychologists; and for veterinary medicine and surgery, Examiners in Veterinary Medicine.

Sec. 9. That section 71-112.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-112.01. The Board of Examiners in Medicine and Surgery shall be responsible ~~after May 23, 1981,~~ for regulating the practice of ~~osteopathy~~ osteopathic medicine and surgery in the same manner as such board regulates the practice of medicine and surgery.

Sec. 10. That section 71-131, Revised Statutes Supplement, 1988, be amended to read as follows:

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

(a) The department may adopt and promulgate rules and regulations determining the passing grade on examinations upon recommendation of the appropriate board of examiners. 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 on each subject in which examined; and

(b) An examinee who fails to comply with subdivision (a) of this subsection may take the entire examination over without charge at any time within fourteen months, except that in the case in which a national standardized examination is utilized by any examining board, which requires the payment of a fee to purchase such examination, the department shall require the applicant to pay the appropriate examination fee.

(2) In pharmacy all applicants shall be required to attain a grade to be determined by the Board of Examiners in Pharmacy in an examination in pharmacy and a grade of seventy-five in an examination in jurisprudence of pharmacy. When an applicant falls below the designated grade in one of the two examinations, the applicant may take that examination over without charge at any time within fourteen months at any regular session of such board held for the purpose of giving examinations or at the first regular session of the board held for the purpose of giving examinations thereafter if not held within that time. If an applicant falls below the designated grade in both the examination in pharmacy and the examination in jurisprudence of pharmacy, the applicant shall take both

examinations over and the applicant may do this without charge at any time within fourteen months at any regular session of the board held for the purpose of giving examinations or at the first regular session of the board held for the purpose of giving examinations thereafter if not held within that time. Notwithstanding any provision of this section, whenever the Board of Examiners in Pharmacy utilizes a national standardized examination, which requires the payment of a fee to purchase such examination, the department shall require the applicant to pay the appropriate examination fee.

(3) In social work the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Social Work 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 71-1,260 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 Examiners in Professional Counseling 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 71-1,271 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

(5) In medicine and surgery applicants taking the examination for the first time for licensure in this state in medicine and surgery, ~~osteopathic medicine~~, or osteopathic medicine and surgery shall take the entire examination in one administration period. When an applicant falls below the designated grade or grades for the entire examination, the applicant may take the entire examination over at any regular session of the board held for the purpose of giving examinations. Applicants who fall below the designated grade in a separate component of the examination may retake only that component at any regular session of the board held for the purpose of giving component examinations. No applicant may retake any separate component of or the entire examination for licensure more than three times without first providing documentation of successful completion of one additional year of postgraduate medical education at an accredited school or college of medicine or ~~osteopathy~~ osteopathic medicine. No more

than seven years shall lapse between initial examination of an applicant and successful completion by an applicant of all components of the examination for licensure in medicine and surgery, ~~osteopathic medicine,~~ or osteopathic medicine and surgery. A passing grade or score for a component shall become invalid at the end of a period of seven years. Fees for examination shall be determined by the department upon the recommendation of the Board of Examiners in Medicine and Surgery in amounts necessary to cover the actual cost of the examination and expenses of administration. Separate fees shall be established in the same manner for reexamination for the entire examination and for reexamination for any separate component of the examination.

(6) In psychology fees for reexamination shall be the same as the fee for the initial examination.

(7) In chiropractic fees for reexamination shall be the same as the fee for the initial examination.

(8) In athletic training fees for reexamination shall be the same as the fee for the initial examination. If an applicant fails the first examination, the applicant shall, after the expiration of six months and within two years from the first failure, be allowed to take a second examination upon payment of the examination fee. Applicants failing the second examination may take the examination a third time if the applicant qualifies under the rules and regulations of the department in effect at the time of his or her application for reexamination.

(9) In respiratory care fees for reexamination shall be the same as the fee for the initial examination.

(10) In dietetic and nutrition services the passing criterion for such examination shall be established and may be changed by the Board of Examiners in Dietetics and Nutrition 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 71-1,291 or rules and regulations adopted and promulgated by the department pursuant to section 71-139.

Sec. 11. That section 71-139, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-139. 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, osteopathic medicine, osteopathy, and audiology and speech-language pathology, to a person who has been in the active practice of that profession in some other state, or territory, or the District of Columbia upon the certificate of the proper licensing authority of the state, territory, or the District of Columbia 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. The applicant shall also present proof of the following things: (1) That the state, territory, or the District of Columbia from which the applicant comes shall have and maintain standards regulating his or her profession equal to those maintained in that profession by Nebraska; (2) that his or her license there was based upon a written examination and the grades given at such examination; (3) the date of his or her license; (4) that such licensee 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; (5) the affidavit of at least two practitioners in that state, or territory, or the District of Columbia testifying to the applicant being of good moral character and standing in his or her profession; and (6) that the applicant has been in the active and continuous practice under license by examination in the state, territory, or the District of Columbia from which he or she comes for at least one year. 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.

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

Persons who graduate from schools or colleges of osteopathy 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 osteopathy osteopathic

medicine accredited by the department on recommendation of the Board of Examiners in 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 Examiners in 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 Examiners in 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 osteopathy 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 Examiners in Medicine and Surgery may be granted a special license as doctor of osteopathic medicine and surgery.

The department may approve without examination any person who has been duly licensed to practice optometry in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the Board of Examiners in 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 the proper licensing authority of the state, territory, or the 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.

The Board of Examiners in Dentistry may approve any person who has been duly licensed to practice dentistry or dental hygiene in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the board shall find 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 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 the proper licensing authority of the state, territory, or the 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 requirements comparable to the requirements of this state. The board of examiners 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 Health shall review the findings and shall, if in agreement with the findings, deny the application.

Sec. 12. That section 71-162, Revised Statutes Supplement, 1988, be amended to read as follows:

71-162. (1) The following fees shall be collected by the department and turned in to the state treasury as is now provided by law:

(a) Not less than fifty dollars nor more than three hundred dollars for a license issued on the basis of an examination given by the appropriate state or national board of examiners or on the basis of a license granted by another state or territory to practice dental hygiene, athletic training, respiratory care, embalming, physical therapy, dentistry, podiatry, optometry, pharmacy, chiropractic, audiology, speech-language pathology, massage therapy, or funeral directing and for a license to practice psychology issued on the basis of such an examination or foreign license, one hundred dollars plus actual costs incurred in issuing the license, as determined by the department, except that the total fee shall not exceed four hundred dollars;

(b) Not less than twenty dollars nor more than four hundred dollars for the biennial renewal of a license to practice medicine and surgery, osteopathy osteopathic medicine and surgery, as an osteopathic physician, or any of the professions enumerated in subdivision (a) of this subsection;

(c) For a license to practice medicine and surgery, and osteopathy osteopathic medicine and surgery, or as an osteopathic physician issued upon the basis of an examination given by the board of examiners, three hundred dollars, and this may be adjusted by the department upon recommendation of the Board of Examiners in Medicine and Surgery to cover necessary expenses;

(d) For a license to practice medicine and surgery, and osteopathy osteopathic medicine and surgery, or as an osteopathic physician issued without examination based on a license granted in another state, or territory, or the District of Columbia, two hundred dollars, and this may be adjusted by the department upon recommendation of the Board of Examiners in Medicine and Surgery to cover necessary expenses;

(e) For a certificate as a certified professional counselor, not to exceed two hundred fifty dollars nor less than one hundred twenty-five dollars. The fee for renewal of a certificate as a certified professional counselor shall not exceed one hundred seventy-five dollars nor be less than one hundred dollars. The fee for certification by reciprocity shall not exceed two hundred fifty dollars nor be less than one hundred twenty-five dollars;

(f) For a certificate as a certified master social worker, not to exceed two hundred twenty-five dollars nor less than one hundred dollars. The fee for a certificate as a certified social worker shall not exceed one hundred seventy-five dollars nor be less than

one hundred dollars. The fee for renewal of a certificate as a certified master social worker shall not exceed one hundred seventy-five dollars nor be less than one hundred dollars. The fee for renewal of a certificate as a certified social worker shall not exceed one hundred fifty dollars nor be less than seventy-five dollars. The fee for certification by reciprocity shall not exceed two hundred dollars nor be less than one hundred dollars;

(g)(i) For a license to operate a massage therapy school, not less than one hundred dollars nor more than three hundred dollars, and for renewal of a license, not less than one hundred dollars nor more than three hundred dollars, and (ii) for a license to operate a massage therapy establishment, not less than one hundred dollars nor more than three hundred dollars, and for renewal of a license, not less than one hundred dollars nor more than four hundred dollars;

(h) For a certificate as a certified nutritionist, not to exceed two hundred fifty dollars nor less than fifty dollars. The fee for renewal of a certificate as a certified nutritionist shall not exceed one hundred dollars nor be less than twenty dollars. The fee for certification by reciprocity shall not exceed two hundred fifty dollars nor be less than fifty dollars;

(i) For a certified statement that a licensee or certificate holder is licensed or certified in this state, five dollars, and for verification that a licensee or certificate holder is licensed or certified in this state, two dollars; and

(j) For a duplicate original license or certificate, five dollars, except that for a duplicate license to practice psychology the fee shall be ten dollars.

All money paid as license, certificate, and renewal fees shall be kept in a separate fund to be used for the benefit of the profession so paying such fees.

(2) The department, upon the recommendation of the appropriate examining board, shall determine the exact fee to be charged for a license or license renewal or certificate or certificate renewal in each profession enumerated in subdivisions (1)(a), (b), (e), (f), (g), and (h) of this section based on the administrative costs incurred by the board. Such board may provide differing rates for licenses issued on the basis of an examination and licenses issued on the basis of a license from another state or territory or the District of Columbia.

Sec. 13. That section 71-174, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-174. Section 71-173 shall not be construed to include (1) licensed physicians and surgeons or licensed ~~osteopaths~~; osteopathic physicians or (2) physicians and surgeons of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state.

Sec. 14. That section 71-178, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-178. Section 71-177 shall not be construed to include the following classes of persons: (1) Licensed physicians and surgeons and licensed ~~osteopaths~~ osteopathic physicians who are exclusively engaged in the practice of their respective professions; and (2) physicians of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state; or chiropractors licensed in another state when incidentally called into this state in consultation with a chiropractor licensed in this state.

Sec. 15. That section 71-1,103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,103. The following classes of persons shall not be construed to be engaged in the unauthorized practice of medicine: (1) Persons rendering gratuitous services in cases of emergency; (2) persons administering ordinary household remedies; (3) the members of any church practicing its religious tenets, except that they shall not prescribe or administer drugs or medicines, perform surgical or physical operations, nor assume the title of or hold themselves out to be physicians or surgeons, and such members shall not be exempt from the quarantine laws of this state; (4) students of medicine and surgery who are studying in an accredited school or college of medicine and who gratuitously prescribe for and treat disease under the supervision of a licensed physician; (5) physicians and surgeons of the United States Armed Forces or Public Health Service or United States Veterans' Administration or after March 14, 1989, United States Department of Veterans Affairs, when acting in the line of such duty in this state; (6) physicians and surgeons who are graduates of an accredited school or college of medicine with the degree of Doctor of Medicine and licensed in another state when incidentally called into this state for consultation with a physician and surgeon licensed

in this state; (7) physicians and surgeons who are graduates of an accredited school or college of medicine with the degree of Doctor of Medicine and who reside in a state bordering this state and who are duly licensed under the laws thereof to practice medicine and surgery but who do not open an office or maintain or appoint a place to meet patients or to receive calls within this state; (8) persons providing or instructing as to use of braces, prosthetic appliances, crutches, contact lenses, and other lenses and devices prescribed by a doctor of medicine licensed to practice while working under the direction of such physician; (9) dentists practicing their profession when licensed and practicing in accordance with the provisions of sections 71-183 to ~~71-193~~ 71-191; (10) optometrists practicing their profession when licensed and practicing under and in accordance with the provisions of sections 71-1,133 to 71-1,136; (11) ~~esteopaths~~ osteopathic physicians practicing their profession if licensed and practicing under and in accordance with the provisions of sections 71-1,137 and 71-1,141; (12) chiropractors practicing their profession if licensed and practicing under the provisions of sections 71-177 to 71-182; (13) podiatrists practicing their profession when licensed and practicing under and in accordance with the provisions of sections 71-173 to 71-176; (14) any person licensed or certified under the laws of this state to practice a limited field of the healing art, not heretofore specifically named, when confining themselves strictly to the field for which they are licensed or certified, not assuming the title of physician, surgeon, or physician and surgeon, and not professing or holding themselves out as qualified to prescribe drugs in any form or to perform operative surgery; and (15) physicians and surgeons who are duly licensed to practice medicine and surgery in another state who have been recommended by the secretary of the board of examiners in the state of licensure and who have been granted temporary practice rights by the Board of Examiners in Medicine and Surgery, with the approval of the Department of Health, for a period not to exceed three months in any twelve-month period.

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

Sec. 16. That section 71-1,105, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,105. An accredited school or college of medicine for the purpose of the Uniform Licensing Law shall be one approved by the Department of Health upon the recommendation of the Board of Examiners in Medicine and Surgery, and it shall meet and maintain generally minimum standards prescribed by the Board of Examiners in Medicine and Surgery. Such ; ~~PROVIDED, that such~~ minimum standards shall apply equally to all accredited schools, ; and ~~that~~ any school to be accredited shall permit inspections by the department.

A An osteopathic school or college, of osteopathic medicine and surgery fulfilling all the foregoing requirements, shall not be refused standing as an accredited medical school because it may also specialize in giving instruction according to any special system of healing.

Sec. 17. That section 71-1,107.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.01. For the purposes of sections 71-1,107.01 to 71-1,107.14, unless the context otherwise requires:

(1) Temporary educational permit shall mean a permit to practice medicine and surgery, osteopathic medicine and surgery, or any of ~~its~~ their allied specialties in a supervised educational program approved by the Board of Examiners in Medicine and Surgery;

(2) Graduate medical education shall mean a period of supervised educational training by a graduate of an accredited school or college of medicine or an accredited school or college of osteopathy osteopathic medicine, which training has been approved by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery;

(3) Visiting faculty permit shall mean a permit for a physician qualified by virtue of previous medical training and experience to teach students of medicine, to conduct research, or both;

(4) Accredited hospital shall mean a hospital accredited by the Department of Health upon recommendation of the Board of Examiners in Medicine and Surgery;

(5) Accredited school or college of medicine shall mean any school or college of medicine accredited as such pursuant to the laws of the State of Nebraska; and

(6) An accredited school or college of

osteopathy osteopathic medicine shall mean any school or college of osteopathy osteopathic medicine accredited as such under the laws of the State of Nebraska.

Sec. 18. That section 71-1,107.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,107.06. The duration of any permit issued pursuant to sections 71-1,107.01 to 71-1,107.14 shall be determined by the Department of Health but in no case shall it be in excess of one year. The permit may be renewed from time to time at the discretion of the Department of Health but in no case shall it be renewed for more than five one-year periods. The department may issue to all qualified graduates of accredited colleges of medicine or accredited schools or colleges of osteopathy osteopathic medicine, who are eligible for the examination provided in section 71-1,104, and who make application for such examination, a temporary educational permit, without charge. Such permit shall be issued only for the duration of the time between the date of the examination and the date of licensure granted as a result of such examination. Any person issued a temporary educational permit, without charge, shall meet all requirements provided for in sections 71-1,107.01 to 71-1,107.13, except the required fee, and such exemption is only for the period of time between the examination date and the licensing date and for only those individuals who take the examination as provided in section 71-1,104.

Sec. 19. That section 71-1,132.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.05. As used in sections 71-1,132.04 ~~to 71-1,132.09 and 71-1,132-11~~ to 71-1,132.41, unless the context otherwise requires:

- (1) Executive secretary shall mean the executive secretary of the Board of Nursing;
- (2) Board shall mean the Board of Nursing;
- (3) The practice of nursing shall mean the performance for compensation or gratuitously of any act expressing judgment or skill based upon a systematized body of nursing knowledge. Such acts shall include the identification of and intervention in actual or potential health problems of individuals or groups. These acts are directed toward maintaining health status, preventing illness, injury, or infirmity, improving health status, providing care supportive to or restorative of life and well-being through nursing assessment and through the execution of nursing care,

and through the execution of diagnostic or therapeutic regimens of duly licensed practitioners authorized to so order such regimens under the provisions of sections 71-173, 71-183, 71-1,102, and 71-1,137;

(4) The practice of nursing by a registered nurse shall mean assuming responsibility and accountability for those nursing actions which include, but are not limited to:

(a) Identifying human responses to actual or potential health conditions;

(b) Deriving a nursing diagnosis which identifies the needs of an individual, family, or group;

(c) Executing a nursing treatment regimen through the selection, performance, and management of proper nursing practices;

(d) Teaching health care practices;

(e) Advocating the provision of health care services through collaboration with other health service personnel;

(f) Executing diagnostic and therapeutic regimens prescribed by duly licensed practitioners authorized to so order such regimens under the provisions of sections 71-173, 71-183, 71-1,102, and 71-1,137; or

(g) Administering, supervising, delegating, and evaluating nursing activities;

(5) The practice of nursing by a licensed practical nurse shall mean the assumption of responsibilities and the performing of acts, within the educational background of the practical nurse, under the direction of a licensed physician, dentist, osteopath osteopathic physician, podiatrist, or registered nurse. These Such acts include:

(a) Application of nursing techniques and procedures in the observation, teaching, and caring for the ill, injured, and infirm; and

(b) Promoting community health;

(6) Department shall mean the Department of Health; and

(7) Director shall mean the Director of Health.

Sec. 20. That section 71-1,132.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.06. Sections 71-1,132.04 ~~to 71-1,132-09 and 71-1,132-11~~ to 71-1,132.41, confer no authority to practice medicine or surgery nor do they prohibit:

(1) Home care of the sick provided by friends,

domestic servants, nurse maids, or household aides of any type, so long as such persons do not represent or hold themselves out to be licensed nurses, licensed practical nurses, licensed registered nurses, or registered nurses, or use any designation in connection with their names which tend to imply that they are licensed to practice under the provisions of sections 71-1,132.04 to 71-1,132-09 and 71-1,132-11 to 71-1,132.37;

(2) Gratuitous nursing, with or without compensation or personal profit, when done in connection with the practice of the religious tenets of any church by adherents thereof;

(3) Auxiliary services provided by persons carrying out duties necessary for the support of nursing service under the direction of a licensed physician, dentist, ~~osteopath~~ osteopathic physician, or podiatrist, or a nurse licensed under the provisions of this act sections 71-1,132.04 to 71-1,132.37, 71-1,132.47, and 71-1,132.48:

(4) Gratuitous nursing service performed by anyone in case of an emergency;

(5) Nursing by any legally licensed nurse of any other state whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement not to exceed six months in length providing as long as such person does not represent or hold himself or herself out as a nurse licensed to practice in this state;

(6) Nursing services rendered by a student enrolled in an approved school of nursing when ~~these the~~ services are a part of the student's course of study;

(7) Nursing services rendered by a graduate of an approved school of nursing in Nebraska or any other state, pending the results of the first licensing examination scheduled by the board following such graduation;

(8) Nursing services rendered by a person who holds a current license or other evidence of the right to practice professional or practical nursing, as those terms are defined in section 71-1,132.05, issued by any other state, territory, or province of the United States during the period that an application filed by such person for licensure in Nebraska is pending before the board; or

(9) The practice of professional or practical nursing by any legally licensed nurse of another state who is employed by the United States Government or any bureau, division, or agency thereof while in the

discharge of his or her official duties or, if permitted by federal law, as a citizen of a foreign country temporarily residing in Nebraska for a period not to exceed one year for the purpose of postgraduate study and experience, certified to be such by an appropriate agency satisfactory to the board.

Sec. 21. That section 71-1,137, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,137. For the purpose of the Uniform Licensing Law, the following classes of persons shall be deemed to be engaged in the practice of osteopathy as osteopathic physicians: (1) Persons publicly professing to be osteopaths osteopathic physicians or publicly professing to assume the duties incident to the practice of osteopathy osteopathic physicians; and (2) persons who are graduates of a school or college of osteopathy osteopathic medicine and who treat human ailments by that system of the healing art which was advocated and taught by the osteopathic college school or college of osteopathic medicine from which such person graduated at the time of his or her graduation as determined by the Department of Health after consultation with the Board of Examiners in Osteopathy if prior to May 23, 1981, and after consultation with the Board of Examiners in Medicine and Surgery. No , if after May 23, 1981. It is recognized that the scope of teaching and practice of osteopathy has changed and those graduating since January 1, 1963, from colleges of osteopathy accredited by the Department of Health on recommendation of the Board of Examiners in Medicine and Surgery, and who have had at least one year's internship or its equivalent at an institution approved for such postgraduate work by the Board of Examiners in Medicine and Surgery shall be eligible to take the examination provided in section 71-1,104 upon making application therefor and paying the prescribed fee. If such person is successful in passing such examination, the practice of osteopathy by such person may include obstetrics, the use of drugs and medicines and minor surgical procedures in the diagnosis and treatment of human ailments, PROVIDED, no license issued under this section shall authorize the person so licensed to perform surgical procedures except those usually performed by general practitioners, as determined by the Department of Health upon consultation with the Board of Examiners in Medicine and Surgery. Nothing in this section shall be construed to prohibit an osteopath osteopathic physician licensed in accordance with this section from serving as an

assistant in surgery more complex than that usually performed by general practitioners, as determined above, where when such surgery is performed by an osteopath osteopathic physician licensed pursuant to section 71-1,139.01 or by an osteopath osteopathic physician or doctor of medicine licensed pursuant to section 71-1,104. In no event shall this section or section 71-1,139.01 be construed as authorizing an osteopath any physician to engage in any procedure which he or she is not qualified by training to perform according to the standards prevailing in the State of Nebraska at the time. With respect to persons who have graduated from an accredited college of osteopathy between January 1, 1956, and January 1, 1963, the Department of Health upon the approval of the Board of Examiners in Medicine and Surgery, may issue a license to practice osteopathic medicine to any such graduate who meets all requirements for issue of such license except graduation from an accredited college of osteopathy after January 1, 1963, and whose application has been approved by the Board of Examiners in Medicine and Surgery:

Persons who are licensed to practice osteopathy as osteopathic physicians who have demonstrated to the Board of Examiners in Medicine and Surgery that they have acquired adequate training and knowledge for such purpose and have been so authorized by such board may prescribe and administer drugs and medicines. The Board of Examiners in Medicine and Surgery shall provide procedures for determining an osteopath's osteopathic physician's qualifications to prescribe and administer drugs and medicines and for issuing appropriate evidence of authority to do so.

Sec. 22. That section 71-1,138, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,138. Section 71-1,137 shall not be construed to include the following classes of persons: (1) Licensed physicians and surgeons, podiatrists, nurses, and dentists who are exclusively engaged in the practice of their respective professions; (2) physicians and surgeons of the United States Armed Forces or other federal agencies when acting in the line of duty in this state; and (3) osteopaths osteopathic physicians licensed in another state when incidentally called into this state in consultation with a licensed physician or an osteopath osteopathic physician licensed in this state.

Sec. 23. That section 71-1,139, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

71-1,139. Every applicant for a license to practice osteopathy as an osteopathic physician shall (1) present proof of having completed a four-year course in an accredited high school or its equivalent, ~~as that term is herein defined~~; (2) present proof of having graduated from an accredited school or college of osteopathy, osteopathic medicine, and (3) pass an examination, as prescribed by the Board of Examiners in Medicine and Surgery, in the science of osteopathy and the practice of the same.

The Department of Health shall accept, in lieu of the examination provided in subdivision (3) of this section, a certificate of examination issued by the National Board of Osteopathic Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued in osteopathy to osteopathic physicians without examination, based upon a license by examination held in another state, or territory, or the District of Columbia.

Sec. 24. That section 71-1,139.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,139.01. Any person (1) who has graduated from an accredited school of osteopathy or college of osteopathic medicine since January 1, 1963, (2) who meets all statutory requirements for licensure as an osteopath osteopathic physician, (3) who has served one year of internship or its equivalent at an institution approved for such training by the Board of Examiners in Medicine and Surgery, and (4) who has had at least two years postgraduate training in surgery at an institution approved for such training by the Board of Examiners in Medicine and Surgery, and ~~(5)~~ who, after his or her internship, has taken and passed the examination provided in section 71-1,104, upon making application therefor shall receive a special license as a Doctor of Osteopathic Medicine and Surgery which shall qualify such person to practice osteopathic medicine and surgery.

The Department of Health shall accept, in lieu of the examination provided in subdivision ~~(5)~~ (4) of this section, a certificate of examination issued by the National Board of Osteopathic Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued in osteopathic medicine and surgery without examination, based upon a

license by examination held in another state, or territory, or the District of Columbia.

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

Sec. 25. That section 71-1,140, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,140. An accredited school of osteopathy or college of osteopathic medicine shall be one approved by the Department of Health upon the recommendation of the Board of Examiners in Medicine and Surgery. It shall be one which requires for graduation the actual attendance of at least thirty-two months, or four terms of eight months each; its course of study to include the subjects and minimum hours taught in each thereof as follows: Anatomy, five hundred and forty hours; chemistry, three hundred hours; pathology, two hundred and fifty hours; toxicology, fifty hours; pediatrics, one hundred hours; general surgery, four hundred and fifty hours; obstetrics, two hundred hours; histology, one hundred and eighty hours; physiology, three hundred hours; hygiene and dietetics, thirty-six hours; practice, therapeutics, general diagnosis and technique, one thousand and fifty hours; dermatology and syphilis, forty-five hours; orthopedic surgery, forty-five hours; gynecology, one hundred and twenty-five hours; embryology, seventy hours; bacteriology, one hundred and fifty hours; comparative therapeutics, seventy-five hours; nervous and mental diseases, one hundred and fifty hours; jurisprudence, ethics and economics, forty-five hours; genito-urinary diseases, forty-five hours; and eye, ear, nose and throat, one hundred and twenty hours. The number of hours herein prescribed for the study of any subject may be reduced not more than twenty percent, but the total number of hours prescribed shall not be reduced. The foregoing requirements shall be published in each catalog of such school or college of osteopathy. An accredited school or college of osteopathic medicine shall meet and maintain general minimum standards prescribed by the Board of Examiners

in Medicine and Surgery. The minimum standards shall apply equally to all such accredited schools and colleges. Any school or college seeking accreditation shall permit inspections by the department.

Nothing in this section shall be construed to prohibit the Department of Health, upon consultation with the Board of Examiners in Medicine and Surgery, from accepting accreditation of a school or college of osteopathic medicine by the American Osteopathic Association as evidence of meeting the specified requirements of this section or the equivalent thereof.

Sec. 26. That section 71-1,141, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,141. With respect to licenses issued pursuant to the provisions of sections 71-1,139 and 71-1,139.01 and any renewals thereof, the Department of Health shall designate the extent of such practice as follows:

(1) License to practice osteopathy as defined by law before April 11, 1969, as an osteopathic physician; or

(2) License to practice osteopathic medicine; or

{3} License to practice osteopathic medicine and surgery.

Every license issued under sections 71-1,139 and 71-1,139.01 shall confer upon the holder thereof the right to practice osteopathy osteopathic medicine and surgery as taught in the osteopathic colleges schools or colleges of osteopathic medicine recognized by the American Osteopathic Association in the manner and to the extent provided by such license.

Sec. 27. That section 71-1,240, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,240. (1) No person shall be authorized to perform the physical modalities set out in subsection (2) of this section on any person unless he or she first obtains a license as an athletic trainer or unless such person is licensed as a physician, osteopath, osteopathic physician, chiropractor, nurse, physical therapist, or podiatrist. No person shall hold himself or herself out to be an athletic trainer unless licensed under sections 71-1,238 to 71-1,243.

(2) Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries under guidelines established with a referring licensed physician:

- (a) Application of electrical stimulation;
- (b) Application of ultrasound;
- (c) Use of medical diathermies;
- (d) Application of infrared light; and
- (e) Application of ultraviolet light.

(3) The application of heat, cold, air, water, or exercise shall not be restricted by sections 71-1,238 to 71-1,243.

Sec. 28. That section 71-1,279, Revised Statutes Supplement, 1988, be amended to read as follows:

71-1,279. Section 71-1,278 shall not be construed to include the following classes of persons: (1) Licensed physicians and surgeons, ~~osteopaths~~ osteopathic physicians, chiropractors, registered nurses, practical nurses, cosmetologists, chiropodists, physical therapists, and barbers who are exclusively engaged in the practice of their respective professions; and (2) physicians of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state.

Sec. 29. That section 71-2017.01, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2017.01. As used in sections 71-2017 to 71-2029, unless the context otherwise requires:

(1) Care shall mean the exercise of concern or responsibility for the comfort and welfare of the residents of a facility by the owner, occupant, administrator, or operator of the facility in addition to the provision of food and shelter to the residents and shall include, but not be limited to, the maintenance of a minimum amount of supervision of the activities of the residents of the facility as well as the providing of a minimum amount of assistance to the residents and shall also include personal care, hereby defined as the provision of health-related services for individuals who are in need of a protective environment but who are otherwise able to manage the normal activities of daily living;

(2) Hospital shall mean (a) any institution, facility, place, or building which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or medical care over a period exceeding twenty-four consecutive hours of two or more nonrelated individuals suffering from illness, condition, injury, or deformity, (b) a place which is devoted primarily to the rendering over a period exceeding twenty-four consecutive hours of obstetrical

or other medical care for two or more nonrelated individuals, or (c) any institution, facility, place, or building in which any accommodation is primarily maintained, furnished, or offered for the medical and nursing care over a period exceeding twenty-four consecutive hours of two or more nonrelated aged or infirm persons requiring or receiving convalescent care, and shall include, but not be restricted to, facilities or parts of facilities which provide space for general acute hospitals, short-term hospitals, rehabilitation hospitals, long-term care hospitals, psychiatric or mental hospitals, and emergency hospitals or treatment centers and shall not be construed to include the residence, office, or clinic of a private physician or of an association of physicians, any other health practitioner, or any practitioner or association of practitioners licensed pursuant to Chapter 71, in which residence, office, or clinic patients are not treated or given care for a period in excess of twenty-four consecutive hours;

(3) General acute hospital shall mean a hospital having a duly constituted governing body which exercises administrative and professional responsibility and an organized medical staff which provides inpatient care, including medical, nursing, surgical, anesthesia, laboratory, diagnostic radiology, pharmacy, and dietary services. Such services may be provided through a contract or agreement;

(4) Short-term hospital shall mean a hospital that (a) is primarily devoted to the diagnosis and treatment of individuals requiring short-term treatment or treatment of diagnosis consistent with the medical support available and (b) has written coordination agreements with a general acute hospital for transfers and quality assurance programs. Short-term hospital shall not mean a facility for the treatment of mental diseases, a rehabilitation hospital, an alcoholic treatment center, or a drug treatment center;

(5) Rehabilitation hospital shall mean an inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services provided under professional supervision;

(6) Long-term care hospital shall mean any hospital, any distinct part of any hospital, or any portion of a hospital which is primarily devoted to providing the care and services as set forth in subdivisions (10) and (11) of this section;

(7) Psychiatric or mental hospital shall mean

a hospital which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(8) Emergency hospital or treatment center shall mean a hospital primarily devoted to the diagnosis and treatment of individuals requiring emergency outpatient services and emergency care and with written coordination agreements with a general acute hospital for transfers and quality assurance programs;

(9) Health clinic shall mean any institution, facility, place, building, or agency which is operated under the name or title of health clinic, health center, or any other word or phrase of like or similar import, either independently or in connection with any other purpose, for the purpose of providing or making available at such institution, facility, place, building, or agency on an outpatient basis and for a period not exceeding twenty-four consecutive hours advice, counseling, diagnosis, treatment, care, or services relating to the preservation or maintenance of health primarily or exclusively to persons not residing or confined in such institution, facility, place, or building and which is not licensed as a hospital. Satellite clinics operated on an intermittent basis at a specific location or site and providing services within a portion of the total geographic area served by a licensed health clinic need not be licensed, but may operate as a part of the parent clinic and share administration and services. Specific types or categories of health clinics may be further defined by appropriate rule and regulation of the Department of Health not inconsistent with this definition and in no case shall be construed to include the residence, office, or clinic of a private physician or an association of physicians, any other health practitioner or association of practitioners, or any practitioner licensed pursuant to Chapter 71 unless ten or more abortions, as defined in subdivision (1) of section 28-326, are performed during any one calendar week in such residence, office, or clinic;

(10) Skilled nursing facility shall mean any institution or facility, or a distinct part of any institution or facility, which is primarily devoted to providing to inpatients skilled nursing care and related services for patients who require medical or nursing care or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. A skilled nursing facility shall provide at least one registered

nurse on duty on the day shift seven days per week and a licensed registered nurse or licensed practical nurse on the other two shifts seven days per week. The Director of Nursing Services shall be a licensed registered nurse;

(11) Intermediate care facility shall mean any institution, facility, place, or building in which accommodation and board for a period exceeding twenty-four consecutive hours and also nursing care and related medical services are provided for two or more nonrelated individuals who are ill, injured, or disabled but not in need of hospital or skilled nursing facility care, but who by reason of illness, disease, injury, deformity, disability, convalescence, or physical or mental infirmity require such nursing care and related medical services. An intermediate care facility shall provide at least one registered nurse or licensed practical nurse on duty on the day shift seven days a week and at least one registered nurse, licensed practical nurse, or care staff member on duty on the other two shifts. An intermediate care facility shall provide a Director of Nursing Services, who shall be a licensed registered nurse, to administer, supervise, delegate, and evaluate nursing and nursing support services of the facility, except that an intermediate care facility that, as of February 1, 1987, has in its employ a licensed practical nurse as Health Service Supervisor may retain such licensed practical nurse in that capacity after March 27, 1987. Such facility shall not be required to provide a Director of Nursing during the continuance of employment of such licensed practical nurse if such licensed practical nurse is and continues to be supervised by a licensed physician, osteopath osteopathic physician, or registered nurse who, by employment or contract, is above such licensed practical nurse in the line of authority of the facility and is responsible, in the interest of the facility, for his or her hire, transfer, promotion, layoff, recall, promotion, discharge, assignment, reward, or discipline and adjustment of grievances or the effective recommendation of such action, which responsibility is not merely routine or clerical in nature but requires the exercise of independent judgment. Nothing contained in this section shall be construed to expand the scope of practice of a licensed practical nurse to permit an intermediate care facility utilizing a licensed practical nurse as Health Service Supervisor to provide nursing services other than those which are within the scope of practice of a licensed practical nurse as

defined in section 71-1,132.06. The Director of Nursing Services or Health Service Supervisor shall serve on the day shift five days a week, eight hours per day, except when it is necessary to vary working hours to provide supervision on other shifts, and may satisfy the day-shift nurse requirement for five of seven days per week if he or she can meet both the nursing care needs of the patients or residents for that shift and his or her administrative and supervisory responsibilities as Director of Nursing Services or Health Service Supervisor;

(12) Intermediate care facility for the mentally retarded shall mean any institution, facility, place, or building, not licensed as a hospital, that provides accommodation, board, training or habilitation services, advice, counseling, diagnosis, treatment, and care, including nursing care and related medical services, for a period exceeding twenty-four consecutive hours for fifteen or more nonrelated individuals who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities. The requirement of fifteen or more nonrelated individuals shall not apply to any intermediate care facility for the mentally retarded which has a valid license as of January 1, 1988;

(13) Residential care facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more nonrelated individuals who by reason of illness, disease, injury, deformity, disability, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own affairs, but do not require the daily services of a licensed registered or practical nurse;

(14) Domiciliary facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation and supervision to four or more individuals, not related to the owner, occupant, manager, or administrator thereof, who are essentially capable of managing their own affairs, but who are in need of supervision, including supervision of nutrition, by the facility on a regular, continuing basis, but not necessarily on a consecutive twenty-four-hour basis. This definition shall not include those homes or facilities providing casual care at irregular intervals;

(15) Mental health center shall mean any institution, facility, place, or building which is used to provide, for a period exceeding twenty-four consecutive hours, accommodation, board, and advice, counseling, diagnosis, treatment, care, or services primarily or exclusively to persons residing or confined in the facility who are afflicted with a mental disease, disorder, or disability and which is not licensed as a hospital;

(16) Center for the developmentally disabled shall mean any residential facility, place, or building, not licensed as a hospital, which is used to provide accommodation, board, and training, advice, counseling, diagnosis, treatment, care, including medical care when appropriate, or services primarily or exclusively to four or more persons residing in the facility who have developmental disabilities;

(17) Alcoholic treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals having any type of habituation, dependency, or addiction to the use of alcohol and in which there are provided guidance, supervision, and personal services relating to those areas of adjustment which enable the alcohol dependent or alcoholic to move into independent living in normal surroundings, but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one, and shall include facilities in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the facility having any type of habituation, dependency, or addiction to the use of alcohol. Specific types or categories of alcoholic treatment centers may be further defined by appropriate rule and regulation of the Department of Health not inconsistent with this definition;

(18) Drug treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals who have any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug and in which there are provided guidance, supervision, and personal services relating to

those areas of adjustment which enable the drug user, dependent, or addict to move into independent living in normal surroundings, but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one, and shall include facilities in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the facility having any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug. Specific types or categories of drug treatment centers may be further defined by appropriate rule and regulation of the Department of Health not inconsistent with this definition;

(19) Home health agency shall mean a public agency, private organization, or subdivision of such an agency or organization which is primarily engaged in providing skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to patients in a place of temporary or permanent residence used as the patient's home under a plan of care as prescribed by the attending physician and which meets the rules, regulations, and standards as established by the Department of Health. Parent home health agency shall mean the primary home health agency which establishes, maintains, and assures administrative and supervisory control of branch offices and subunits. Branch office shall mean a home health agency which is at a location or site providing services within a portion of the total geographic area served by the parent agency and is in sufficient proximity to share administration, supervision, and services with its parent agency in a manner that renders it unnecessary for the branch independently to meet licensure requirements. A branch office shall be part of its parent home health agency and share administration and services. Subunit shall mean a home health agency which serves patients in a geographic area different from that of the parent agency and which, by virtue of the distance between it and the parent agency, is judged incapable of sharing administration, supervision, and services on a daily basis and shall independently meet the licensing requirements for home health agencies. Home health agency shall not include private duty nursing registries as long as the individual is the direct payee from the patient. Home health agency shall not apply to the practice of home health care by other licensed medical

persons as authorized by the practice of their particular specialty nor to the individuals providing homemaker or chore services within the home;

(20) Developmental disability shall mean a severe, chronic disability of a person which (a) is attributable to a mental or physical impairment or combination of mental and physical impairment, (b) is manifested before the person attains the age of twenty-two, (c) is likely to continue indefinitely, (d) results in substantial functional limitations in three or more of the following areas of major life activity: Self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living; and economic self-sufficiency, and (e) reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; and

(21) Qualified mental retardation professional shall mean any person (a) who has satisfied any of the educational requirements listed in this subdivision, (b) who has at least two years of additional experience in treating persons with mental retardation, one of which was spent in an administrative capacity, and (c) who has offered proof of fulfillment of the requirements prescribed in this subdivision to the department. Educational requirements to satisfy this subdivision shall include the following: A psychologist with at least a master's degree in psychology from an accredited college or university and with specialized training or one year of experience in treating persons with mental retardation; a physician licensed under the Uniform Licensing Law to practice medicine and surgery, ~~or osteopathy~~ osteopathic medicine and surgery, or as an osteopathic physician and with specialized training or one year of experience in treating persons with mental retardation; an educator with a degree in education from an accredited college or university and with specialized training or one year of experience in working with persons with mental retardation; or a certified social worker or certified master social worker certificated under the Uniform Licensing Law who has at least three years' social work experience and specialized training or one year of experience in working with persons with mental retardation.

Sec. 30. That section 71-2601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2601. The State Board of Health shall consist of fifteen members to be appointed by the Governor with the consent of a majority of the members elected to the Legislature. Two members shall be licensed to practice medicine and surgery in this state, one member shall be licensed to practice dentistry in this state, one member shall be licensed to practice optometry in this state, one member shall be licensed to practice veterinary medicine in this state, one member shall be licensed to practice pharmacy in this state, one member shall be licensed to practice nursing in this state, one member shall be licensed to practice osteopathy osteopathic medicine and surgery or as an osteopathic physician in this state, one member shall be licensed to practice podiatry in this state, one member shall be licensed to practice chiropractic in this state, one member shall be licensed to practice physical therapy in this state, one member shall be a registered professional engineer in this state, one member shall be an administrator of a hospital in this state which is licensed pursuant to sections 71-2017 to 71-2029, and two members shall at all times be public-spirited citizens of Nebraska interested in the health of the people of the State of Nebraska, and not less than twenty-one years of age. The Governor shall also be an ex officio member of such board but shall be permitted to vote on matters before such board only when necessary to break a tie.

Sec. 31. That section 71-2802, Revised Statutes Supplement, 1988, be amended to read as follows:

71-2802. Sections 71-2801 to 71-2804 shall not be construed to include the following classes of persons:

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

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

Sec. 32. That section 71-3503, Revised Statutes Supplement, 1988, be amended to read as follows:

71-3503. As used in the Radiation Control Act, unless the context otherwise requires:

(1) Radiation shall mean ionizing radiation and nonionizing radiation as follows:

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

(b) Nonionizing radiation shall mean (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 shall mean any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material shall include, but not be limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment shall mean 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 shall mean radioactive material and radiation-generating equipment;

(5) Undesirable radiation shall mean 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 shall mean any individual, corporation, partnership, 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, but shall not include federal government agencies;

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

(8) Department shall mean the Department of Health;

(9) Coordinator shall mean the Director of

Health;

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

(11) Electronic product shall mean 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 shall mean:

(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; or

(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;

(13) Byproduct material shall mean:

(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; or

(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;

(14) Source material shall mean:

(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 shall not include special nuclear material;

(15) Special nuclear material shall mean:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235, but shall not include source material; or

(b) Any material artificially enriched by any such materials, but shall not include source material;

(16) Users of sources of radiation shall mean:

(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 shall mean any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates, but shall not include criminal penalties;

(18) Closure shall mean 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 shall mean 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 shall mean 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 shall mean to produce low-level radioactive waste, when used in relation to low-level radioactive waste;

(22) High-level radioactive waste shall mean:

(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 shall mean 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 shall mean 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 shall mean 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 shall mean 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 shall mean 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 shall include the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(28) Transuranic waste shall mean 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 shall mean a person licensed to practice medicine, dentistry, podiatry, chiropractic, or osteopathy osteopathic medicine and surgery, or as an osteopathic physician; and

(30) X-ray system shall mean medical equipment which performs radiographic functions on humans by using ionizing radiation for diagnostic purposes, excluding nuclear medicine and radiation therapy procedures.

Sec. 33. That section 71-3505, Revised Statutes Supplement, 1988, be amended to read as follows:

71-3505. Matters relative to radiation as they relate to occupational and public health and safety and the environment shall be a responsibility of the department. The department shall:

(1) Develop comprehensive policies and programs for the evaluation and determination of

undesirable radiation associated with the production, use, storage, or disposal of radiation sources and formulate, adopt, promulgate, and repeal rules and regulations which may provide (a) for registration or licensure under section 71-3507 or 71-3509 and (b) for registration or licensure of any other source of radiation as specified by rule or regulation so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and regulations for the issuance of licenses, either general or specific, to persons for the purpose of using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502. Such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, ~~osteopathy~~ osteopathic medicine, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, radiologic technologists, nurses, and laboratory workers, acting under the supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

(2) Inform the council of any such rules and regulations at least thirty days prior to their adoption and consider any recommendations of the council;

(3) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other

sources, public or private;

(4) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the control of sources of radiation;

(5) Collect and disseminate health education information relating to radiation protection;

(6) Make its facilities available so that any person or any agency may request the department to review and comment on plans and specifications of installations submitted by the person or agency, with respect to matters of protection and safety, for the control of undesirable radiation;

(7) Be empowered to inspect radiation sources and their shieldings and surroundings for the determination of any possible undesirable radiation or violations of rules and regulations adopted and promulgated by the department, and provide the owner, user, or operator with a report of any known or suspected deficiencies;

(8) Collect a fee for emergency response or environmental surveillance, or both, offsite from each nuclear power plant equal to the cost of completing the emergency response or environmental surveillance and any associated report. In no event shall the fee for any nuclear power plant exceed the lesser of the actual annual costs of such activities or thirty-six thousand dollars. The fee collected shall be deposited in the Department of Health Cash Fund and shall be used solely for the purpose of defraying the costs of the emergency response and environmental surveillance conducted by the department; and

(9) Develop a program which establishes policies, requirements, and standards for appropriate education, training, written testing, and practical testing of persons operating an X-ray system.

Sec. 34. That section 71-3506, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3506. (1) There is hereby established a radiation advisory council within the department consisting of nine members to be appointed by the Governor. The Governor shall appoint to the council one individual with experience relating to radiation from each of the following fields: (a) Radiology; (b) medicine, exclusive of radiology; (c) radiation or health physics; (d) law; (e) agriculture; (f) labor; (g) business or industry; (h) dentistry; and (i) chiropractic, ~~osteopathy~~ osteopathic medicine

and surgery, or podiatry. Each appointed member shall hold office for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed, shall be appointed for the remainder of such term. The terms of office of the members first taking office shall expire, as designated at the time of appointment, three at the end of the first year, three at the end of the second year, and three at the end of the third year. After the date of appointment, appointed council members, while serving on business of the council, shall receive compensation at the rate of twenty dollars per day and shall also be entitled to receive actual and necessary travel and subsistence expenses while so serving as provided in sections 81-1174 to 81-1177 for state employees.

(2) The council shall:

(a) Elect a chairperson to serve at the pleasure of the council;

(b) Meet on call of the chairperson or at the request of any three members;

(c) Review and evaluate policies and programs of the state relating to radiation; and

(d) Make recommendations to the coordinator and the department and furnish such technical advice as may be required on matters relating to the development, utilization, and regulation of sources of radiation.

Sec. 35. That section 71-3508, Revised Statutes Supplement, 1988, be amended to read as follows:

71-3508. (1) The department shall require each person who possesses or uses a source of radiation to maintain records relating to its receipt, storage, transfer, or disposal and such other records as the department may require subject to such exemptions as may be provided by rules or regulations. These records shall be made available for inspection by or copies shall be submitted to the department on request.

(2) The department shall require each person who possesses or uses a source of radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by rules and regulations of the department. Copies of these records and those required to be kept by subsection (1) of this section shall be submitted to the department on request. Any person possessing or using a source of radiation shall furnish to each employee for whom personnel monitoring is required a copy of each employee's personal exposure record at any time such

employee has received exposure in excess of the amount specified in the rules and regulations of the department and upon termination of employment. A copy of the annual exposure record shall be furnished to the employee upon his or her request.

(3) The department may adopt and promulgate rules and regulations establishing qualifications pertaining to the education, knowledge of radiation safety procedures, training, experience, utilization, facilities, equipment, and radiation protection program that an individual user of sources of radiation ~~must~~ shall possess prior to using any source of radiation or radiation-generating equipment. Individuals who are currently licensed in the State of Nebraska as podiatrists, chiropractors, dentists, physicians and surgeons, ~~osteopaths~~ osteopathic physicians, and veterinarians or certified as physician assistants shall be exempt from the rules and regulations of the department pertaining to the training requirements for the use of X-ray radiation-generating equipment operated for diagnostic purposes.

Sec. 36. That section 71-5402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5402. As used in ~~sections 71-1, 147-10 and 71-5401 to 71-5408~~ the Nebraska Drug Product Selection Act, unless the context otherwise requires:

(1) Brand name shall mean the proprietary or trade name selected by the manufacturer and placed upon a drug; and upon its container, label, or wrapping at the time of packaging;

(2) Generic name shall mean the official title of a drug or drug combination as determined by the United States Adopted Names and accepted by the federal Food and Drug Administration of those drug products having exactly the same active chemical ingredients in exactly the same strength and quantity;

(3) Drug product select shall mean to dispense, without the duly licensed prescriber's express authorization, a chemically equivalent and bioequivalent drug product in place of the drug product ordered or prescribed;

(4) Chemically equivalent shall mean drug products that contain amounts of the identical therapeutically active ingredients in the identical strength, quantity, and dosage form and that meet present compendial standards;

(5) Bioequivalent shall mean drug products that:

(a) Are legally marketed under regulations promulgated by the federal Food and Drug Administration;

(b) Are the same dosage form of the identical active ingredients in the identical amounts as the drug product prescribed;

(c) Comply with compendial standards and are consistent from lot to lot with respect to (i) purity of ingredients, (ii) weight variation, (iii) uniformity of content, and (iv) stability; and

(d) For which the federal Food and Drug Administration has established bioequivalent standards or has determined that no bioequivalence problems exist;

(6) Pharmacist shall mean a pharmacist duly licensed in accordance with the provisions of licensure of Chapter 71, article 1 Uniform Licensing Law;

(7) Medical practitioner shall mean a duly licensed physician, physician and surgeon, ~~practitioner of osteopathic medicine~~ osteopathic physician, dentist, podiatrist, or veterinarian licensed in accordance with the provisions of Chapter 71, article 1 Uniform Licensing Law; and

(8) Department shall mean the Department of Health.

Sec. 37. That section 71-5855, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5855. The department shall, by rules and regulations, provide criteria for:

(1) Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service area in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics, and specialty centers;

(2) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages;

(3) In the case of a construction project, the costs and methods of the proposed construction, including the costs and methods of providing energy, and the probable impact of the construction project reviewed on the costs of providing health services by the person proposing the construction project;

(4) The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in

which the services are to be provided;

(5) If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes;

(6) The factors which affect competition in the supply of the health services being reviewed;

(7) Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost-effectiveness; and

(8) The need for the availability of services and facilities for osteopathic physicians and their patients, including training programs for ~~doctors of osteopathy~~ osteopathic physicians, when an application for a certificate of need is made by an osteopathic facility.

Sec. 38. That section 81-642, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-642. It is the intent of the Legislature to require the establishment and maintenance of a cancer registry for the State of Nebraska. This responsibility is delegated to the Department of Health along with the authority to exercise the necessary powers to implement sections 81-642 to 81-650. To insure an accurate and continuing source of data concerning cancer, all hospitals within the state shall make available to the Department of Health upon its request, at least once a year, information contained in the medical records of patients who have cancer within such time following its diagnosis as the department shall require. Any medical doctor, ~~osteopath~~ osteopathic physician, or dentist within the state may make such information available to the department upon request by the department. This cancer registry should provide a central data bank of accurate, precise, and current information which medical authorities state will assist in the research for the prevention, cure, and control of cancer.

Sec. 39. That section 81-646, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-646. (1) On the request of the department or its authorized representative, each medical doctor, ~~osteopath~~ osteopathic physician, or dentist within the state may produce and make available to the department or its authorized representative, in a manner prescribed by the department, data which the department determines is necessary and appropriate from each medical record of

cancer under the doctor's, osteopath's osteopathic physician's, or dentist's custody or control.

(2) Each hospital within the state shall make available to the department or its authorized representative on presentation of proper identification of the department's representative, a list of names of cancer patients, corresponding medical records numbers, and medical records which document the diagnosis and treatment of cancer on the premises of the hospital, office, or clinic during normal working hours, for the purpose of recording specific data about a patient's cancer.

(3) Each hospital that initially diagnoses cancer made reportable by the department for more than fifty patients during a calendar year shall, for the next calendar year, at the request of the department or its authorized representative, produce and make available, in a manner prescribed by the department, data which the department determines is necessary and appropriate from each medical record of cancer under the control of such hospital. Any hospital with fewer than fifty initial diagnoses of cancer may report in the same manner.

(4) The data produced pursuant to subsection (1) of this section shall include, but not be limited to, the:

- (a) Patient's name, address, and available social security number;
- (b) Patient's hospital accession number;
- (c) Patient's birthdate, race, and sex;
- (d) Date of diagnosis;
- (e) Primary site of cancer;
- (f) Stage of the disease, including in situ, localized, regional, distant, or metastasis;
- (g) Basis of staging, including clinical diagnostic, surgical evaluative, postsurgical treatment pathological, or retreatment; and
- (h) Diagnostic confirmation.

Sec. 40. That section 81-648, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-648. No hospital, medical doctor, osteopath osteopathic physician, or dentist, nor any administrator, officer, or employee of such hospital or office in which any such professional practices takes place who is in compliance with sections 81-642 to 81-650, shall be civilly or criminally liable for divulging the information required pursuant to sections 81-642 to 81-650.

Sec. 41. That original sections 21-2202, 44-513, 44-3103, 71-112.01, 71-139, 71-174, 71-178, 71-1,103, 71-1,105, 71-1,107.01, 71-1,107.06, 71-1,132.05, 71-1,132.06, 71-1,137, 71-1,138, 71-1,139, 71-1,139.01, 71-1,140, 71-1,141, 71-1,240, 71-2601, 71-3506, 71-5402, 71-5855, 81-642, 81-646, and 81-648, Reissue Revised Statutes of Nebraska, 1943, and sections 71-102, 71-107, 71-110, 71-111, 71-112, 71-131, 71-162, 71-1,279, 71-2017.01, 71-2802, 71-3503, 71-3505, and 71-3508, Revised Statutes Supplement, 1988, are repealed.

Sec. 42. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.