LEGISLATIVE BILL 1104

Approved by the Governor April 12, 1996

Introduced by Schrock, 38; Dierks, 40; Elmer, 44; Hudkins, 21; Jones, 43; Maurstad, 30; Schellpeper, 18; Schmitt, 41; Wickersham, 49; Vrtiska, 1

AN ACT relating to the Nebraska Rules of the Road; to amend sections 60-601 and 60-6,290, Reissue Revised Statutes of Nebraska, and sections 60-301 and 60-6,294, Revised Statutes Supplement, 1995; to exempt agricultural floater-spreader implements from weight and load restrictions; to change length limits for combines being transported; to define a term; to state intent; 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. Section 60-301, Revised Statutes Supplement, 1995, is amended to read:

60-301. For purposes of Chapter 60, article 3, unless the context otherwise requires:

(1) Agricultural products means field crops and horticultural, viticultural, forestry, nut, dairy, livestock, poultry, bee, and farm products, including sod grown on the land owned or rented by the farmer, and the byproducts derived from any of them;

(2) Apportionable vehicle means any vehicle used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property. Apportionable vehicle does not include any recreational vehicle, vehicle displaying restricted plates, city pickup and delivery vehicle, bus used in the transportation of chartered parties, or government-owned vehicle. Such vehicle shall either (a) be a power unit having two axles and a gross vehicle weight or registered gross vehicle weight in excess of twenty-six thousand pounds, (b) be a power unit having three or more axles, regardless of weight, or (c) be used in combination when the weight of such combination exceeds twenty-six thousand pounds gross vehicle weight. Vehicles or combinations of vehicles having a gross vehicle weight of twenty-six thousand pounds or less and two-axle vehicles and buses used in the transportation of chartered parties may be proportionally registered at the option of the registrant;

(3) Automobile liability policy means liability insurance written by an insurance carrier duly authorized to do business in this state protecting other persons from damages for liability on account of accidents occurring subsequent to the effective date of the insurance arising out of the ownership of a motor vehicle (a) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (b) subject to the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (c) in the amount of twenty-five thousand dollars because of injury to or destruction of property of other persons in any one accident. An automobile liability policy shall not exclude liability coverage under the policy solely because the injured person making a claim is the named insured in the policy or a spouse or relative residing in the same household with the named insured;

(4) Cabin trailer means any vehicle without motive power designed for living quarters and for being drawn by a motor vehicle and not exceeding one hundred two inches in width, forty feet in length, or thirteen and one-half feet in height;

(5) Commercial trailer means any trailer or semitrailer designed, used, or maintained for the transportation of persons or property for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property and does not include farm trailers, fertilizer trailers, utility trailers, or cabin trailers;

(6) Commercial vehicle means any motor vehicle used or maintained for the transportation of persons or property for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property and does not include farm trucks;

(7) Evidence of insurance means evidence of a current and effective automobile liability policy;

(8) Farm trailer means any trailer or semitrailer (a) used exclusively to carry a farmer's or rancher's own supplies, farm equipment, and

household goods to or from the owner's farm or ranch, (b) used by the farmer or rancher to carry his or her own agricultural products, livestock, and produce to or from storage and market and attached to a passenger car, commercial-licensed vehicle registered for sixteen tons or less, or farm-licensed vehicle, or (c) used by a farmer or rancher to carry his or her own agricultural products, livestock, and produce to and from market. Such trailers shall carry on their license plate, in addition to the registration number, the letter X. Farm trailer does not include a trailer so used when attached to a farm tractor;

(9) Farm trucks means trucks, including combinations of trucks or truck-tractors and trailers or semitrailers, of farmers or ranchers (a) used exclusively to carry a farmer's or rancher's own supplies, farm equipment, and household goods to or from the owner's farm or ranch, (b) used by the farmer or rancher to carry his or her own agricultural products, livestock, and produce to or from storage or market, (c) used by farmers or ranchers in exchange of service in such hauling of such supplies or agricultural products, livestock, and produce, or (d) used occasionally to carry camper units, to pull boats or cabin trailers, or to carry or pull museum pieces or vehicles of historical significance, without compensation, to events for public display or educational purposes. Such trucks may carry on their license plates, in addition to the registration number, the designation farm and the words NOT FOR HIRE;

(10) Fertilizer trailer means any trailer, including gooseneck applicators or trailers, designed and used exclusively to carry or apply agricultural fertilizer or agricultural chemicals and having a gross weight, including load thereon, of twenty thousand pounds or less. Such trailers shall carry on their license plate, in addition to the registration number, the letter X;

(11) Film vehicle means any motor vehicle or trailer used exclusively by a nonresident production company temporarily on location in Nebraska producing a feature film, television commercial, documentary, or industrial or educational videotape production;

(12) Fleet means one or more apportionable vehicles;

(13) Highways means public streets, roads, turnpikes, parks, parkways, drives, alleys, and other public ways used for the passage of road vehicles;

(14) In-state miles means total miles operated (a) in the State of Nebraska during the preceding year by the motor vehicle or vehicles registered and licensed for fleet operation and (b) in noncontracting reciprocity states by vehicles that are base-plated in Nebraska;

(15) Local truck means a truck and combinations of trucks, truck-tractors, or trailers or semitrailers operated solely within an incorporated city or village or within ten miles of the corporate limits of the city or village in which they are owned, operated, and registered. Such trucks shall carry on their license plates, in addition to the registration number, the designation of local truck;

(16) Motor vehicle means any vehicle propelled by any power other than muscular power except (a) mopeds as defined in section 60-637, (b) farm tractors, (c) self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops, agricultural floater-spreader implements as defined in section 5 of this act, and other implements of husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding livestock, (d) power unit hay grinders or a combination which includes a power unit and a hay grinder when operated without cargo, (e) vehicles which run only on rails or tracks, (f) off-road designed vehicles, including, but not limited to, golf carts, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles as defined in section 60-6,355, snowmobiles as defined in section 60-663, and minibikes as defined in section 60-636, (g) road and general-purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to, ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, and crawler tractors, and (h) self-propelled chairs used by persons who are disabled;

(17) Motorcycle means any motor vehicle, except a tractor or an all-terrain vehicle as defined in section 60-6,355, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground;

(18) Noncontracting reciprocity state means any state which is not a party to any type of contracting agreement between the State of Nebraska and one or more other jurisdictions for registration purposes on commercial vehicles and, as a condition to operate on the highways of that state, (a)

does not require any type of vehicle registration or allocation of vehicles for registration purposes or (b) does not impose any charges based on miles operated, other than those that might be assessed against fuel consumed in that state, on any vehicles which are part of a Nebraska-based fleet;

(19) Owner means a person, firm, or corporation which holds a legal title of a vehicle. If (a) a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, (b) a vehicle is subject to a lease of thirty days or more with an immediate right of possession vested in the lessee, or (c) a mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee, or mortgagor shall be deemed the owner for purposes of Chapter 60, article 3. For such purpose, there are hereby adopted and incorporated by reference the provisions of Article XI, International Registration Plan, adopted by the American Association of Motor Vehicle Administrators, as revised November 1976;

(20) Park means to stop a vehicle for any length of time, whether occupied or unoccupied;

(21) Passenger car means a motor vehicle designed and used to carry ten passengers or less and not used for hire;

(22) Proof of financial responsibility has the same meaning as in section 60-501;

(23) Self-propelled mobile home means a vehicle with motive power designed for living quarters;

(24) Semitrailer means any vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle;

(25) Total fleet miles means the total number of miles operated in all jurisdictions during the preceding year by the vehicles in such fleet during such year;

(26) Trailer means any vehicle without motive power designed for carrying persons or property and being pulled by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;

(27) Transporter means any person lawfully engaged in the business of transporting vehicles not his or her own solely for delivery thereof (a) by driving singly, (b) by driving in combinations by the towbar, fullmount, or saddlemount methods or any combinations thereof, or (c) when a truck or tractor draws a semitrailer or tows a trailer;

(28) Truck-tractor means any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load being drawn;

(29) Trucks means motor vehicles equipped or used for the transportation of property;

(30) Utility trailer means a trailer having a gross weight, including load thereon, of nine thousand pounds or less attached to a motor vehicle and used exclusively to carry miscellaneous items of personal property. Such trailers shall carry on their license plate, in addition to the registration number, the letter X; and

(31) Vehicle means any device in, upon, or by which any person or property is or may be transported or drawn upon a public highway except devices moved solely by human power or used exclusively upon stationary rails or tracks.

Sec. 2. Section 60-601, Reissue Revised Statutes of Nebraska, is amended to read:

60-601. Sections 60-601 to 60-6,374 and section 5 of this act shall be known and may be cited as the Nebraska Rules of the Road.

Sec. 3. Section 60-6,290, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,290. (1)(a) No vehicle shall exceed a length of forty feet, extreme overall dimensions, inclusive of front and rear bumpers including load, except that:

(i) A bus may exceed the forty-foot limitation by up to but not to exceed six inches when such excess length is caused by the projection of a front or rear safety bumper constructed, treated, or manufactured so that it absorbs energy upon impact;

(ii) A truck-tractor may exceed the forty-foot limitation;

(iii) A semitrailer operating in a truck-tractor single semitrailer combination, which semitrailer was actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation; and

(iv) A semitrailer operating in a truck-tractor single semitrailer

combination, which semitrailer was not actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation but shall not exceed a length of fifty-three feet including load.

(b) No combination of vehicles shall exceed a length of sixty-five feet, extreme overall dimensions, inclusive of front and rear bumpers and including load, except:

(i) One truck and one trailer, loaded or unloaded, used in transporting a combine to be engaged in harvesting, while being transported into or through the state during daylight hours if the total length does not exceed seventy-five feet including load;

(ii) A truck-tractor single semitrailer combination;

(iii) A truck-tractor semitrailer trailer combination, but the semitrailer trailer portion of such combination shall not exceed sixty-five feet inclusive of connective devices; and

(iv) A driveaway saddlemount vehicle transporter combination and driveaway saddlemount with fullmount vehicle transporter combination, but the total overall length shall not exceed seventy-five feet.

(c) A truck shall be construed to be one vehicle for the purpose of determining length.

(d) A trailer shall be construed to be one vehicle for the purpose of determining length.

(2) Subsection (1) of this section shall not apply to:

(a) Extra-long vehicles which have been issued a permit pursuant to section 60-6,292;

(b) Vehicles which have been issued a permit pursuant to section 60-6,299;

(c) The temporary moving of farm machinery during daylight hours in the normal course of farm operations;

(d) The movement of unbaled livestock forage vehicles, loaded or unloaded;

(e) The movement of public utility or other construction and maintenance material and equipment at any time;

(f) Farm equipment dealers hauling, driving, delivering, or picking up farm equipment or implements of husbandry within the county in which the dealer maintains his or her place of business, or in any adjoining county or counties, and return;

(g) The overhang of any motor vehicle being hauled upon any lawful combination of vehicles, but such overhang shall not exceed the distance from the rear axle of the hauled motor vehicle to the closest bumper thereof; ~~or~~

(h) The overhang of a combine to be engaged in harvesting, while being transported into or through the state driven during daylight hours by a truck-tractor semitrailer combination, but the length of the semitrailer, including overhang, shall not exceed sixty-three feet and the maximum semitrailer length shall not exceed fifty-three feet; or

~~(h)~~ (i) Any rubber-tired crane with a fixed load when the requirements of subdivision (2)(j) of section 60-6,288 are met.

(3) The length limitations of this section shall be exclusive of safety and energy conservation devices such as rearview mirrors, turnsignal lights, marker lights, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors, and other devices necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded from the limitations of this section shall have by its design or use the capability to carry cargo.

Sec. 4. Section 60-6,294, Revised Statutes Supplement, 1995, is amended to read:

60-6,294. (1) Every vehicle, whether operated singly or in a combination of vehicles, and every combination of vehicles shall comply with subsections (2) and (3) of this section except as provided in section 60-6,297 and section 5 of this act. The limitations imposed by this section shall be supplemental to all other provisions imposing limitations upon the size and weight of vehicles.

(2) No wheel of a vehicle or trailer equipped with pneumatic or solid rubber tires shall carry a gross load in excess of ten thousand pounds on any highway nor shall any axle carry a gross load in excess of twenty thousand pounds on any highway. An axle load shall be defined as the total load transmitted to the highway by all wheels the centers of which may be included between two parallel transverse vertical planes forty inches apart extending across the full width of the vehicle.

(3) No group of two or more consecutive axles shall carry a load in pounds in excess of the value given in the following table corresponding to the distance in feet between the extreme axles of the group, measured

longitudinally to the nearest foot, except that the maximum load carried on any group of two or more axles shall not exceed eighty thousand pounds on the National System of Interstate and Defense Highways unless the Director-State Engineer pursuant to section 60-6,295 authorizes a greater weight.

Distance in feet between the extremes of any group of two or more consecutive axles	Maximum load in pounds carried on any group of two or more consecutive axles					
	Two Axles	Three Axles	Four Axles	Five Axles	Six Axles	Seven Axles
4	34,000					
5	34,000					
6	34,000					
7	34,000					
8	34,000	42,000				
9	39,000	42,500				
10	40,000	43,500				
11		44,000				
12		45,000	50,000			
13		45,500	50,500			
14		46,500	51,500			
15		47,000	52,000			
16		48,000	52,500	58,000		
17		48,500	53,500	58,500		
18		49,500	54,000	59,000		
19		50,000	54,500	60,000		
20		51,000	55,500	60,500		
21		51,500	56,000	61,000		
22		52,500	56,500	61,500		
23		53,000	57,500	62,500		
24		54,000	58,000	63,000		
25		54,500	58,500	63,500	69,000	
26		55,500	59,500	64,000	69,500	
27		56,000	60,000	65,000	70,000	
28		57,000	60,500	65,500	71,000	
29		57,500	61,500	66,000	71,500	
30		58,500	62,000	66,500	72,000	
31		59,000	62,500	67,500	72,500	
32		60,000	63,500	68,000	73,000	
33			64,000	68,500	74,000	
34			64,500	69,000	74,500	
35			65,500	70,000	75,000	
36			66,000	70,500	75,500	
37			66,500	71,000	76,000	81,500
38			67,500	72,000	77,000	82,000
39			68,000	72,500	77,500	82,500
40			68,500	73,000	78,000	83,500
41			69,500	73,500	78,500	84,000
42			70,000	74,000	79,000	84,500
43			70,500	75,000	80,000	85,000
44			71,500	75,500	80,500	85,500
45			72,000	76,000	81,000	86,000
46			72,500	76,500	81,500	87,000
47			73,500	77,500	82,000	87,500
48			74,000	78,000	83,000	88,000
49			74,500	78,500	83,500	88,500
50			75,500	79,000	84,000	89,000
51			76,000	80,000	84,500	89,500
52			76,500	80,500	85,000	90,500
53			77,500	81,000	86,000	91,000
54			78,000	81,500	86,500	91,500
55			78,500	82,500	87,000	92,000
56			79,500	83,000	87,500	92,500
57			80,000	83,500	88,000	93,000
58				84,000	89,000	94,000
59				85,000	89,500	94,500
60				85,500	90,000	95,000

(4) The distance between axles shall be measured to the nearest foot. When a fraction is exactly one-half foot, the next larger whole number shall be used, except that:

(a) Any group of three axles shall be restricted to a maximum load

of thirty-four thousand pounds unless the distance between the extremes of the first and third axles is at least ninety-six inches in fact; and

(b) The maximum gross load on any group of two axles, the distance between the extremes of which is more than eight feet but less than eight feet six inches, shall be thirty-eight thousand pounds.

(5) The limitations of subsections (2) through (4) of this section shall apply as stated to all main, rural, and intercity highways but shall not be construed as inhibiting heavier axle loads in metropolitan areas, except on the National System of Interstate and Defense Highways, if such loads are not prohibited by city ordinance.

(6) The weight limitations of wheel and axle loads as defined in subsections (2) through (4) of this section shall be restricted to the extent deemed necessary by the Department of Roads for a reasonable period when road subgrades or pavements are weak or are materially weakened by climatic conditions.

(7) Two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each when the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six, thirty-seven, or thirty-eight feet except as provided in section 60-6,297. Such vehicles shall be subject to section 60-6,301.

(8) If any ~~truck~~ vehicle crosses a bridge with a total gross load in excess of the posted capacity of such bridge and as a result of such crossing any damage results to the bridge, the owner of such ~~truck~~ vehicle shall be responsible for all of such damage.

(9) Vehicles equipped with a greater number of axles than provided in the tables in subsection (3) of this section shall be legal if they do not exceed the maximum load upon any wheel or axle, the maximum load upon any group of two or more consecutive axles, and the total gross weight, or any of such weights as provided in subsections (2) and (3) of this section.

(10) Subsections (1) through (9) of this section shall not apply to a vehicle which has been issued a permit pursuant to section 60-6,299 or to a rubber-tired crane with a fixed load when the requirements of subdivision (2)(j) of section 60-6,288 are met.

(11) Any two consecutive axles the centers of which are more than forty inches and not more than ninety-six inches apart, measured to the nearest inch between any two adjacent axles in the series, shall be defined as tandem axles, and the gross weight transmitted to the road surface through such series shall not exceed thirty-four thousand pounds. No axle of the series shall exceed the maximum weight permitted under this section for a single axle.

(12) Dummy axles shall be disregarded in determining the lawful weight of a vehicle or vehicle combination for operation on the highway. Dummy axle shall mean an axle attached to a vehicle or vehicle combination in a manner so that it does not articulate or substantially equalize the load and does not carry at least the lesser of eight thousand pounds or eight percent of the gross weight of the vehicle or vehicle combination.

Sec. 5. (1) The Legislature finds that highway and roadway travel by agricultural floater-spreader implements is incidental to their designed purpose and use and that their use is essential to the agricultural industry of the State of Nebraska.

(2) Agricultural floater-spreader implement means self-propelled equipment which is designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops and which has a gross laden weight of forty-eight thousand pounds or less and is equipped with floatation tires.

(3) Subsections (2) and (3) of section 60-6,294 shall not apply to agricultural floater-spreader implements. This exemption does not include travel upon the National System of Interstate and Defense Highways.

(4) When operated upon any highway, an agricultural floater-spreader implement shall not be operated at a speed in excess of thirty miles per hour.

Sec. 6. Original sections 60-601 and 60-6,290, Reissue Revised Statutes of Nebraska, and sections 60-301 and 60-6,294, Revised Statutes Supplement, 1995, are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.

LEGISLATIVE BILL 1108

Approved by the Governor April 15, 1996

Introduced by Dierks, 40

AN ACT relating to public health and welfare; to amend sections 28-401, 28-410, 28-412, 28-414, 28-1437, 71-124.01, 71-129, 71-1,107.19, 71-1,107.25, 71-1,107.26, and 71-1,107.29, Reissue Revised Statutes of Nebraska, sections 71-1,107.16, 71-1,107.17, 71-1,142, 71-1,143, 71-1,147, 71-1,147.09, 71-1,147.53, 71-1,147.56, and 71-1,147.57, Revised Statutes Supplement, 1994, and sections 71-3508, 71-5108, 71-5109, 71-5111, and 71-7001, Revised Statutes Supplement, 1995; to change provisions relating to prescriptions, the dispensing of drugs, and the regulation of the pharmacy profession; to change certification provisions for physician assistants; to provide for licensure of physician assistants; 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. Section 28-401, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Administer shall mean the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (a) A practitioner or, in his or her presence, by his or her authorized agent; or (b) the patient or research subject at the direction and in the presence of the practitioner;

(2) Agent shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. Agent shall not include a common or contract carrier, public warehouse keeper, or employee of the carrier or warehouse keeper;

(3) Administration shall mean the Drug Enforcement Administration, United States Department of Justice;

(4) Controlled substance shall mean a drug, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled substance shall not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription;

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

(6) Department shall mean the Department of Health;

(7) Division of Drug Control shall mean the personnel of the Nebraska State Patrol who are assigned to enforce the Uniform Controlled Substances Act;

(8) Bureau of Examining Boards shall mean personnel of the department responsible for the enforcement of the Uniform Controlled Substances Act in the areas assigned to it by the act;

(9) Dispense shall mean to deliver a controlled substance to an ultimate user or a research subject pursuant to the lawful order or prescription of a physician, dentist, veterinarian, or other medical practitioner licensed under the laws of this state to prescribe drugs, including the packaging, labeling, or compounding necessary to prepare the substance for such delivery. Dispenser shall mean the apothecary, pharmacist, or other practitioner, duly licensed, who dispenses a controlled substance to an ultimate user or a research subject;

(10) Distribute shall mean to deliver other than by administering or dispensing a controlled substance. Distributor shall mean a person who so distributes a controlled substance;

(11) Prescribe shall mean the act of a physician, surgeon, dentist, veterinarian, or other medical practitioner licensed under the laws of this state in issuing an order, prescription, or direction to a pharmacist or pharmacy to dispense a drug as required by the laws of this state;

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

(13) Deliver or delivery shall mean the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(14) Marijuana shall mean all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, but shall not include the mature stalks of such plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, or the sterilized seed of such plant which is incapable of germination. When the weight of marijuana is referred to in the Uniform Controlled Substances Act, it shall mean its weight at or about the time it is seized or otherwise comes into the possession of law enforcement authorities, whether cured or uncured at that time;

(15) Manufacture shall mean the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and shall include any packaging or repackaging of the substance or labeling or relabeling of its container, except that manufacture shall not include the preparation or compounding of a controlled substance by an individual for his or her own use or the preparation, compounding, packaging, or labeling of a controlled substance: (a) By a practitioner as an incident to his or her prescribing, administering, or dispensing of a controlled substance in the course of his or her professional practice; or (b) by a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

(16) Narcotic drug shall mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (a) Opium, opium poppy and poppy straw, coca leaves, and opiates; (b) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates; or (c) a substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivisions (a) and (b) of this subdivision, except that the words narcotic drug as used in ~~this article~~ the Uniform Controlled Substances Act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

(17) Opiate shall mean any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. Opiate shall not include the dextrorotatory isomer of 3-methozy-n methylmorphinan and its salts. Opiate shall include its racemic and levorotatory forms;

(18) Opium poppy shall mean the plant of the species Papaver somniferum L., except the seeds thereof;

(19) Poppy straw shall mean all parts, except the seeds, of the opium poppy after mowing;

(20) Person shall mean any corporation, association, partnership, limited liability company, or one or more individuals;

(21) Practitioner shall mean a physician, dentist, veterinarian, pharmacist, scientific investigator, pharmacy, or hospital, licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state;

(22) Production shall include the manufacture, planting, cultivation, or harvesting of a controlled substance;

(23) Immediate precursor shall mean a substance which is the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture;

(24) State shall mean the State of Nebraska;

(25) Ultimate user shall mean a person who lawfully possesses a controlled substance for his or her own use, for the use of a member of his or her household, or for administration to an animal owned by him or her or by a member of his or her household;

(26) Physician shall mean a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state;

(27) Dentist shall mean a person authorized by law to practice dentistry in this state;

(28) Veterinarian shall mean a person authorized by law to practice veterinary medicine in this state;

(29) Hospital shall mean an institution for the care and treatment of sick and injured human beings and approved by the department;

(30) Podiatrist shall mean a person authorized by law to practice podiatry and who has graduated from an accredited school of podiatry in or since 1935;

(31) Apothecary shall mean a licensed pharmacist as defined by the laws of this state and, when the context so requires, the owner of the store or other place of business where drugs are compounded or dispensed by a licensed pharmacist, but nothing in this subdivision shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege that is not granted to him or her by the pharmacy laws of this state;

(32) Nothing in the Uniform Controlled Substances Act shall be construed as authority for a practitioner to perform an act for which he or she is not authorized by the laws of this state;

(33) Cooperating individual shall mean any person, other than a commissioned law enforcement officer, who acts on behalf of, at the request of, or as agent for a law enforcement agency for the purpose of gathering or obtaining evidence of offenses punishable under the Uniform Controlled Substances Act;

(34) Hashish or concentrated cannabis shall mean: (a) The separated resin, whether crude or purified, obtained from a plant of the genus cannabis; or (b) any material, preparation, mixture, compound, or other substance which contains ten percent or more by weight of tetrahydrocannabinols;

(35) Exceptionally hazardous drug shall mean (a) a narcotic drug, (b) thiophene analog of phencyclidine, (c) phencyclidine, (d) amobarbital, (e) secobarbital, or (f) pentobarbital;

(36) Imitation controlled substance shall mean a substance which is not a controlled substance but which, by way of express or implied representations and consideration of other relevant factors including those specified in section 28-445, would lead a reasonable person to believe the substance is a controlled substance. A placebo or registered investigational drug manufactured, distributed, possessed, or delivered in the ordinary course of practice or research by a health care professional shall not be deemed to be an imitation controlled substance;

(37) Controlled substance analogue shall mean a substance (a) the chemical structure of which is substantially similar to the chemical structure of a Schedule I or Schedule II controlled substance as provided in section 28-405 or (b) which has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system of a Schedule I or Schedule II controlled substance as provided in section 28-405. A controlled substance analogue shall, to the extent intended for human consumption, be treated as a controlled substance under Schedule I of section 28-405 for purposes of ~~this article~~ the Uniform Controlled Substances Act. Controlled substance analogue shall not include (i) a controlled substance, (ii) any substance ~~considered~~ generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., (iii) any substance for which there is an approved new drug application, or (iv) with respect to a particular person, any substance if an exemption is in effect for investigational use for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent conduct with respect to such substance is pursuant to such exemption; and

(38) Anabolic steroid shall mean any drug or hormonal substance,

chemically and pharmacologically related to testosterone, (other than estrogens, progestins, and corticosteroids) that promotes muscle growth and includes any controlled substance in Schedule III(d) of section 28-405. Anabolic steroid shall not include any anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and has been approved by the Secretary of Health and Human Services for such administration, but if any person prescribes, dispenses, or distributes such a steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subdivision.

Sec. 2. Section 28-410, Reissue Revised Statutes of Nebraska, is amended to read:

28-410. ~~On January 1, 1979, each~~ Each registrant manufacturing, distributing, or dispensing controlled substances in Schedule I, II, III, IV, or V of section 28-405 shall keep and maintain a complete and accurate record of all stocks of such controlled substances on hand. Such records shall be maintained for ~~two~~ seven years. Each two-year period, at a time provided for by rule and regulation to be promulgated by the department, each registrant manufacturing, distributing, or dispensing controlled substances shall prepare an inventory of each controlled substance in his or her possession. Records and inventories shall contain such information as shall be required by rules and regulations promulgated by the department. All registration and reregistration fees shall be remitted to the Bureau of Examining Boards and credited to the Pharmacy Fund for the express purpose of the enforcement responsibilities of the department in accordance with the provisions of ~~this article~~ the Uniform Controlled Substances Act. This section shall not apply to practitioners who lawfully prescribe, administer, or occasionally dispense as a part of their professional practice, controlled substances listed in Schedule II, III, IV, or V of section 28-405, unless such practitioner regularly engages in dispensing any such drug or drugs to his or her patients for which they are charged either separately or together with charges for other professional services. ~~Compliance with the provisions of the Federal Controlled Dangerous Substances Act respecting records and reports, with the exception of provisions as to fees, shall be deemed compliance with this section.~~

Sec. 3. Section 28-412, Reissue Revised Statutes of Nebraska, is amended to read:

28-412. It shall be unlawful for any duly licensed practicing physician to prescribe, or for any duly licensed practicing physician, dentist, or veterinarian, to administer, in any manner or form, any cocaine, alpha or beta eucaine, morphine, or opium, or any salt, compound, or derivative of any of the foregoing substances, or any preparation, product, or compound, containing any of the foregoing substances or any of their salts, compounds, or derivatives, for, or to, any person addicted to the habitual use of cocaine, alpha or beta eucaine, morphine, or opium, or any salt, compound, or derivative of any of the foregoing substances, or any preparation, product, or compound containing any of the foregoing substances or any of their salts, compounds, or derivatives, except that a reputable and duly licensed practicing physician may personally administer to a patient who is a habitual user of such drugs, or any of them, necessary doses thereof, when it has been in good faith determined by two reputable and duly licensed practicing physicians, in consultation, to be absolutely necessary in the medical treatment of such patient, in which case, the physician administering such drugs, or any of them, shall make and keep a record in writing of the name and address of the person to whom such drugs, or any of them, were administered, the date administered, the form and quantity of drug administered, the name and address of the consulting physician, and the date and place of consultation. Such record shall be retained and preserved within the State of Nebraska, and the county where administered, for a period of at least ~~two~~ seven years, and shall always be open for inspection by the Department of Health, state, county and city health officers, county attorneys, grand juries, and all officers of the law, and by agents appointed by them, or any of them, for the purpose of making an inspection. The record shall be made at the time of each administration of such drugs, or any of them, and a copy of the record shall, within five days after each administration of such drugs, or any of them, as in this section provided, be filed with the county attorney of the county in which the administering took place, by the physician administering the drugs, or any of them, and shall have affixed thereto the signature and address of the administering physician.

Any person violating any of the provisions or requirements of this section or any part thereof shall be guilty of a Class IV felony.

Sec. 4. Section 28-414, Reissue Revised Statutes of Nebraska, is

amended to read:

28-414. (1)(a) Except as provided in subdivision (1)(b) of this section or when administered directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedule II of section 28-405 may be dispensed without the written prescription of a practitioner, except that in emergency situations as prescribed by the department by rule and regulation, such substance may be dispensed pursuant to a facsimile prescription bearing the word emergency or upon oral prescription reduced promptly to writing in conformity with subdivision (4)(b) of this section and filed by the pharmacist. No prescription for a Schedule II substance may be refilled.

(b)(i) A prescription for a controlled substance included in Schedule II of section 28-405 may be transmitted by the practitioner to a pharmacy ~~via~~ by facsimile equipment, if the original written, signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance except as provided in subdivision (1)(b)(ii) or (1)(b)(iii) of this section, ~~or subdivision (1)(b)(i) of this section.~~

(ii) A prescription written for a narcotic controlled substance included in Schedule II of section 28-405 to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by the practitioner to the ~~home infusion~~ pharmacy by facsimile equipment for the purpose of home infusion therapy. The facsimile shall serve as the original written prescription for purposes of subdivision (1)(b)(ii) of this section and it shall be maintained in accordance with the provisions of subdivision (4)(a) of this section.

(iii) A prescription written for a controlled substance included in Schedule II of section 28-405 for a resident of a long-term care facility may be transmitted by the practitioner to the dispensing pharmacy by facsimile equipment. The facsimile shall serve as the original written prescription for purposes of subdivision (1)(b)(iii) of this section and it shall be maintained in accordance with the provisions of subdivision (4)(a) of this section.

(iv) The partial filling of a prescription for a controlled substance listed in Schedule II of section 28-405 is permissible if the pharmacist does not supply the full quantity called for in a written, emergency oral, or facsimile prescription and he or she makes a notation of the quantity supplied on the face of the written prescription or written record of the emergency oral or facsimile prescription. The remaining portion of the prescription may be filled within seventy-two hours of the first partial filling; however, if the remaining portion is not or cannot be filled within the seventy-two-hour period, the pharmacist shall so notify the prescribing practitioner. No further quantity may be supplied beyond seventy-two hours without a new prescription.

(c) A prescription for a controlled substance listed in Schedule II of section 28-405 written for a patient in a long-term care facility or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist shall record on the prescription whether the patient is terminally ill or a long-term care facility patient. ~~A~~ Except as provided in subdivision (1)(b)(iv) of this section, a prescription that is partially filled and does not contain the notation terminally ill or long-term care facility patient shall be deemed to have been filled in violation of the Uniform Controlled Substances Act. For each partial filling, the dispensing pharmacist shall record on the back of the prescription or on another appropriate record, uniformly maintained and readily retrievable, the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. Prior to any subsequent partial filling the pharmacist is to determine that the additional partial filling is necessary. The total quantity of Schedule II controlled substances dispensed in all partial fillings shall not exceed the total quantity prescribed. Schedule II prescriptions for patients in a long-term care facility or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed sixty days from the date of issuance unless sooner terminated by the discontinuance of medication.

(2)(a) Except as provided in subdivision (2)(b) of this section or when administered directly by a practitioner, other than a pharmacist, to an ultimate user, no other controlled substance included in Schedule III or IV of

section 28-405 which is a prescription drug as determined under the laws of this state or the laws of the United States may be dispensed without a written or oral prescription. Such prescription may not be filled more than six months after the date of the prescription. Practitioner authorization shall be required to refill any such prescription. Such refills may not occur more than five times within six months after the date of the prescription.

(b) A prescription for a controlled substance included in Schedule III or IV of section 28-405 may be transmitted by the practitioner to a pharmacy ~~via~~ by facsimile equipment. The facsimile shall serve as the original written prescription for purposes of this subdivision and it shall be maintained in accordance with the provisions of subdivision ~~(4)(a)~~ (4)(c) of this section.

(c) A prescription for a controlled substance listed in Schedule III or IV of section 28-405 may be filled in partial quantities if (i) each partial filling is recorded in the same manner as a refilling, (ii) the total quantity dispensed in all partial fillings does not exceed the total quantity prescribed, and (iii) each partial filing is dispensed within six months after the date on which the prescription was issued.

(3)(a) Except as provided in subdivision (3)(b) of this section or when administered directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance included in Schedule V of section 28-405 may be dispensed without a written or oral prescription.

(b) A prescription for a controlled substance included in Schedule V of section 28-405 may be transmitted by the practitioner to a pharmacy ~~via~~ by facsimile equipment. The facsimile shall serve as the original written prescription for purposes of this subdivision and it shall be maintained in accordance with the provisions of subdivision ~~(4)(a)~~ (4)(c) of this section.

(4)(a) Prescriptions for all Schedule II controlled substances shall be kept in a separate file by the practitioner, shall be maintained for a minimum of seven years, and shall be available to authorized agents of the Bureau of Examining Boards and the Division of Drug Control for inspection without any requirement for obtaining a search warrant.

(b) All prescriptions for controlled substances in Schedule II of section 28-405 shall contain the name and address of the patient and the name and address of the prescribing practitioner, including the registry number under the federal narcotic laws of the prescribing practitioner. The pharmacist or practitioner filling the prescription shall write the date of filling and his or her own signature on the face of the prescription. If the prescription is for an animal, it shall state the name and address of the owner of the animal and the species of the animal.

(c) Prescriptions for all controlled substances in Schedules III, IV, and V of section 28-405 shall be filed separately from other prescriptions in a single file by the practitioner and shall be maintained for a minimum of seven years. The practitioner shall be required to make all prescription files readily available to authorized agents of the Bureau of Examining Boards and the Division of Drug Control for inspection without any requirement for obtaining a search warrant.

(d) All prescriptions for controlled substances in Schedules III, IV, and V of section 28-405 shall contain the name and address of the patient and the name and address of the prescribing practitioner, including the registry number of the prescribing practitioner under the federal narcotics laws. If the prescription is for an animal, it shall state the owner's name and address and species of the animal.

(e) The owner of any stock of controlled substances in Schedules I and II of section 28-405, upon discontinuance of the dealing in such substances, may sell such substances to a manufacturer, wholesaler, or apothecary but only on an official order form as required by section 28-413.

(f) No pharmacist or dispensing practitioner shall dispense any controlled substance contained in Schedule II of section 28-405 without affixing to the container in which the substance is dispensed a label bearing the name and address of the pharmacy or dispensing practitioner, the name of the patient, the date ~~compounded~~ of filling, the consecutive number of the prescription under which it is recorded in the practitioner's prescription files, the name of the physician, dentist, veterinarian, or other prescribing practitioner who prescribes it, and the directions for the use of the drug. Unless the prescribing practitioner writes do not label or words of similar import on the prescription or so designates in an oral or facsimile transmission of the prescription, all prescriptions for a controlled substance contained in Schedule II of section 28-405 shall bear upon the label the name of the substance in the container.

(g) No pharmacist or dispensing practitioner shall dispense any controlled substance contained in Schedules III, IV, and V of section 28-405

without affixing to the container in which the substance is dispensed a label bearing the name and address of the pharmacy or dispensing practitioner, the name of the patient, the date of initial filling, the consecutive number of the prescription under which it is recorded in the practitioner's prescription files, the name of the physician, dentist, veterinarian, or other prescribing practitioner who prescribes it, and the directions for the use of the drug. Unless the prescribing practitioner writes do not label or words of similar import on the prescription or so designates in an oral or facsimile transmission of the prescription, all prescriptions for a controlled substance contained in Schedules III, IV, and V of section 28-405 shall bear upon the label the name of the substance in the container.

Sec. 5. Section 28-1437, Reissue Revised Statutes of Nebraska, is amended to read:

28-1437. (1) It shall be unlawful for any person knowingly or intentionally to possess or to acquire or obtain or to attempt to acquire or obtain by means of misrepresentation, fraud, forgery, deception, or subterfuge possession of any drug substance not classified as a controlled substance under ~~Chapter 28, article 4~~ the Uniform Controlled Substances Act, but which can only be lawfully distributed, under federal statutes in effect on ~~July 10, 1976~~ the effective date of this act, upon the written or oral order of a ~~duly licensed physician, dentist, osteopathic physician, podiatrist, veterinarian, or optometrist~~ practitioner authorized to prescribe such substances.

(2) Such substances as referred to in subsection (1) of this section shall be known as legend drug substances, which shall be defined as including all drug substances not classified as controlled substances under ~~Chapter 28, article 4~~ the Uniform Controlled Substances Act, but which require a written or oral prescription from a ~~duly licensed~~ practitioner authorized ~~under the laws of the State of Nebraska~~ to prescribe such substances and which may only be lawfully dispensed by a duly licensed pharmacist, in accordance with the provisions of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 to 392, in effect on ~~July 10, 1976~~ the effective date of this act.

(3) A prescription for a legend drug may be transmitted by the practitioner to a pharmacy by facsimile equipment. The facsimile shall serve as the original written prescription for purposes of this subsection.

Sec. 6. Section 71-124.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-124.01. Whenever the department deems it necessary to appoint an inspector or investigator to assist it in performing its duty, the department may appoint a person who is actively engaged in such profession or any other qualified person who has been trained in investigational procedures and techniques to serve as such inspector or investigator with the consent and approval of the board of examiners of the profession involved when applicable, except that only a licensed pharmacist who is or who has been engaged in the active practice of pharmacy as defined in subdivision (1) of section 71-1,142 shall be appointed by the department to serve as a pharmacy inspector with the consent and approval of the Board of Examiners in Pharmacy.

Sec. 7. Section 71-129, Reissue Revised Statutes of Nebraska, is amended to read:

71-129. Examinations for licensure or certification shall be held on such dates and at such times and places as the department or the organization specified by the department may set. Such dates, times, and places as set by the department shall not exceed four in any one year except (1) as provided in section 71-133 for dentistry or (2) in those professions when nonpractical examinations are available for administration by either computers or in written form on a more frequent basis. Examinations may be held in any college or program or at any other location as determined by the department or the organization specified by the department. Any examination may be held concurrently in two or more places to accommodate the applicants therefor. Special examinations may be given at the expense of the applicant and administered by the department, the organization specified by the department, or the board of examiners in that particular profession.

Sec. 8. Section 71-1,107.16, Revised Statutes Supplement, 1994, is amended to read:

71-1,107.16. For purposes of sections 71-1,107.15 to 71-1,107.30, unless the context otherwise requires:

(1) Approved program shall mean a program for the education of physician assistants which the board formally approves;

(2) Board shall mean the Board of Examiners in Medicine and Surgery;

(3) Department shall mean the Department of Health of the State of Nebraska;

(4) Physician assistant shall mean any person who graduates from a program approved by the ~~Council on Allied Health Education and Accreditation~~

Commission on Accreditation of Allied Health Education Programs or its successor agency and the board, who satisfactorily completes a proficiency examination, and whom the board, with the concurrence of the department, approves to perform medical services under the supervision of a physician or group of physicians approved by the board to supervise such assistant;

(5) Supervision shall mean the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunication shall be sufficient to show ready availability if the board finds that such contact is sufficient to provide quality medical care. The level of supervision may vary by geographic location as provided in section 71-1,107.17;

(6) Trainee shall mean any person who is currently enrolled in an approved program;

(7) Proficiency examination shall mean the initial ~~certifying~~ proficiency examination approved by the board for the ~~certification~~ licensure of physician assistants, including, but not limited to, the examination administered by the National Commission on Certification of Physician Assistants or other national organization established for such purpose that is recognized by the board;

(8) Supervising physician shall mean a (a) board-approved physician who utilizes an approved physician assistant or (b) backup physician;

(9) Backup physician shall mean a physician designated by the supervising physician to ensure supervision of the physician assistant in the supervising physician's absence. A backup physician shall be subject to the same requirements imposed upon the supervising physician when the backup physician is acting as a supervising physician; and

(10) Committee shall mean the Physician Assistant Committee created in section 71-1,107.25.

Sec. 9. Section 71-1,107.17, Revised Statutes Supplement, 1994, is amended to read:

71-1,107.17. (1) Notwithstanding any other provision of law, a physician assistant may perform medical services when he or she renders such services under the supervision of a licensed physician or group of physicians approved by the board, in the specialty area or areas for which the physician assistant shall be trained or experienced. Any physician assistant ~~certified~~ licensed under sections 71-1,107.15 to 71-1,107.30 to perform services may perform those services only:

(a) In the office of the supervising physician where such physician maintains his or her primary practice;

(b) In any other office which is operated by the supervising physician with the personal presence of the supervising physician. The physician assistant may function without the personal presence of the supervising physician in an office other than where such physician maintains his or her primary practice as provided in subsection (2) of this section and when approved on an individual basis by the board. Any such approval shall require site visits by the supervising physician, regular reporting to the supervising physician by the physician assistant, and arrangements for supervision at all times by the supervising physician which are sufficient to provide quality medical care;

(c) In a hospital, with the approval of the governing board of such hospital, where the supervising physician is a member of the staff and the physician assistant is subject to the rules and regulations of the hospital. Such rules and regulations may include, but need not be limited to, reasonable requirements that physician assistants and the supervising physician maintain professional liability insurance with such coverage and limits as may be established by the hospital governing board, upon the recommendation of the medical staff; or

(d) On calls outside such offices, when authorized by the supervising physician and with the approval of the governing board of any affected hospital.

(2) The board shall adopt and promulgate rules and regulations establishing minimum requirements for the personal presence of the supervising physician, stated in hours or percentage of practice time. The board may provide different minimum requirements for the personal presence of the supervising physician based on the geographic location of the supervising physician's primary and other practice sites and other factors the board deems relevant.

Sec. 10. Section 71-1,107.19, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.19. (1) The board shall issue ~~certificates~~ licenses to persons who are graduates of physician assistant programs approved by the board and have satisfactorily completed a proficiency examination.

(2) The board shall issue temporary ~~certificates~~ licenses to persons who have successfully completed an approved program for the education and training of physician assistants but have not yet passed a proficiency examination. Any temporary ~~certificate~~ license issued pursuant to this subsection shall be issued for a period not to exceed one year and under such conditions as the board determines, with the approval of the department. The temporary ~~certificate~~ license may be extended by the board, with the approval of the department, upon a showing of good cause.

(3) The board may recognize groups of specialty classifications of training for physician assistants. These classifications shall reflect the training and experience of the physician assistant. The physician assistant may receive training in one or more such classifications which shall be shown on the ~~certificate~~ license issued.

(4) Physician assistants approved by the board prior to April 16, 1985, shall not be required to complete the proficiency examination.

(5) A physician assistant holding a certificate issued under this section prior to the effective date of this act may continue to practice under the certificate until it expires and shall be considered licensed for purposes of the statutes and rules and regulations of Nebraska. Upon expiration of the certificate, the physician assistant may apply for a license and shall be granted a license if he or she would otherwise qualify for renewal of a certificate prior to the effective date of this act. Any reference to certified physician assistant in the rules and regulations of the department prior to the effective date of this act shall be construed to refer to licensed physician assistant until changed by the department.

Sec. 11. Section 71-1,107.25, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.25. There is hereby created the Physician Assistant Committee which shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board. Such matters shall include, but not be limited to, (1) applications for ~~certification~~ licensure, (2) physician assistant education, (3) scope of practice, (4) proceedings arising pursuant to section 71-1,107.23, (5) ~~certification~~ physician assistant licensure and supervising physician requirements, and (6) continuing medical education. The committee shall be directly responsible to the board. The committee shall be appointed within sixty days of April 16, 1985, by the State Board of Health and shall be composed of two physician assistants, one supervising physician, one member of the board, and one layperson. The chairperson of the committee shall be elected by a majority vote of the committee members. All appointments shall be for four-year terms, at staggered intervals. Members shall serve no more than two consecutive terms. Reappointments shall be made by the State Board of Health. The committee shall meet on a regular basis and committee members shall receive reimbursement for time and travel expenditures on the same basis as provided in sections 81-1174 to 81-1177. ~~for state employees.~~

Sec. 12. Section 71-1,107.26, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.26. (1) A fee in an amount established by the board shall accompany the annual application to the board by a physician or group of physicians for authorization to supervise a physician assistant.

(2) Upon approval by the board of an application for ~~certification~~ licensure of a physician assistant, the applicant shall be charged a fee in an amount established by the board, and a fee in an amount established by the board shall accompany each yearly application for renewal of the physician assistant ~~certificate~~ license.

(3) All fees shall be expended for the benefit of the profession of medicine and surgery, and otherwise used as provided in section 71-162, and for the purpose of administering and enforcing sections 71-1,107.15 to 71-1,107.30.

Sec. 13. Section 71-1,107.29, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.29. Any physician assistant who is ~~certified~~ licensed and who renders services under the supervision and control of a licensed physician as provided by sections 71-1,107.15 to 71-1,107.30 shall not be construed to be engaged in the unauthorized practice of medicine.

Sec. 14. Section 71-1,142, Revised Statutes Supplement, 1994, is amended to read:

71-1,142. For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Practice of pharmacy shall mean (a) the interpretation and evaluation of prescription orders, (b) the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer, or

distributor of nonprescription drugs and commercially packaged legend drugs and devices, (c) the participation in drug selection, drug utilization review, drug source selection, and drug administration, (d) the proper and safe storage of drugs and devices and the maintenance of proper records therefor, (e) patient counseling, (f) the provision of pharmaceutical care, and (g) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy. The active practice of pharmacy shall mean the performance of the functions set out in this subdivision by a pharmacist as his or her principal or ordinary occupation;

(2) Administration shall mean the direct application of a drug or device by injection, inhalation, ingestion, or other means to the body of a patient;

(3) Board of pharmacy or board shall mean the Board of Examiners in Pharmacy;

(4) Caregiver shall mean any person acting as an agent on behalf of a patient or any person aiding and assisting a patient;

(5) Compounding shall mean the preparation, mixing, or assembling of a drug or device (a) as the result of a practitioner's prescription order or initiative occurring in the course of professional practice based upon the relationship between the practitioner, patient, and pharmacist or (b) for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding shall include the preparation of drugs or devices in anticipation of prescription orders based upon routine, regularly observed prescribing patterns;

(6) Deliver or delivery shall mean the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration;

(7) Department shall mean the Department of Health;

(8) Device shall mean an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, which is prescribed by a medical practitioner and dispensed by a pharmacist or other person authorized by law to do so;

(9) Dispense or dispensing shall mean the preparation and delivery of a drug or device pursuant to a lawful order of a medical practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the drug or device;

(10) Distribute shall mean the delivery of a drug or device other than by administering or dispensing;

(11) Drug dispensing permit shall mean a permit issued by the department upon the recommendation of the board to a public health clinic which allows for the dispensing of drugs and devices in the formulary approved by the Director of Health pursuant to section 71-1,147.48;

(12) Person shall mean an individual, corporation, partnership, limited liability company, association, or other legal entity;

(13) Labeling shall mean the process of preparing and affixing a label to any drug container or device container, exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation;

(14) Pharmaceutical care shall mean the provision of drug therapy for the purpose of achieving therapeutic outcomes that improve a patient's quality of life. Such outcomes shall include (a) the cure of disease, (b) the elimination or reduction of a patient's symptomatology, (c) the arrest or slowing of a disease process, or (d) the prevention of a disease or symptomatology. Pharmaceutical care shall include the process through which the pharmacist works in concert with the patient and his or her caregiver, physician, or other professionals in designing, implementing, and monitoring a therapeutic plan that will produce specific therapeutic outcomes for the patient;

(15) Pharmacist shall mean any person who (a) is licensed by the State of Nebraska to practice pharmacy or (b) is primarily responsible for providing pharmaceutical care as defined in subdivision (14) of this section;

(16) Pharmacy shall mean (a) any establishment, place, or location advertised as a pharmacy, drug store, hospital pharmacy, dispensary, apothecary, or any combination of such titles or any establishment where the practice of pharmacy is carried on except as exempted in section 71-1,143 and (b) any establishment, place, or location used as a pick-up point or drop point, including kiosks, for prescriptions to be filled or where prescribed drugs or devices are made ready for delivery to the patient, but shall not include an emergency box located within an institution pursuant to the

provisions of the Emergency Box Drug Act;

(17) Drugs, medicines, and medicinal substances shall mean (a) articles recognized in the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them, (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans or animals, (c) articles, except food, intended to affect the structure or any function of the body of a human or an animal, (d) articles intended for use as a component of any articles specified in subdivision (a), (b), or (c) of this subdivision, except any device or its components, parts, or accessories, and (e) prescription drugs as defined in subdivision (22) of this section;

(18) Medical practitioner shall mean any licensed physician, surgeon, podiatrist, dentist, or other person licensed to write prescriptions intended for treatment or prevention of disease or to affect body function in humans or animals;

(19) Patient counseling shall mean the verbal communication by a pharmacist, in a manner reflecting dignity and the right of the patient to a reasonable degree of privacy, of information to the patient or caregiver in order to improve therapeutic outcomes by maximizing proper use of prescribed drugs and devices and shall also include the duties set out in subsection (2) of section 71-1,147.35;

(20) Pharmacist in charge shall mean a pharmacist licensed by the State of Nebraska to practice pharmacy who has been designated on a pharmacy permit or designated by a public or private hospital licensed by the department as being responsible for the practice of pharmacy in the pharmacy for which such permit is issued or such hospital's inpatient pharmacy and who shall work within the physical confines of such pharmacy for a majority of the hours per week that the pharmacy is open for business averaged over a twelve-month period or thirty hours per week, whichever is less;

(21) Pharmacy intern shall mean (a) a student currently enrolled in an accredited college or school of pharmacy or (b) a graduate of an accredited college or school of pharmacy serving his or her internship, such internship to expire not later than fifteen months after the date of graduation or at the time of professional licensure, whichever comes first. Such pharmacy intern may compound and dispense drugs or devices and fill prescriptions only in the presence of and under the immediate personal supervision of a licensed pharmacist. Such licensed pharmacist ~~who~~ shall either be (i) the person to whom the pharmacy permit is issued or a person in the actual employ of the permittee or (ii) the pharmacist in charge designated by a public or private institution licensed as a hospital by the department which is not required to obtain a permit pursuant to section 71-1,147.01 or a person in the actual employ of such institution;

(22) Prescription drug or legend drug shall mean (a) a drug which under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (i) Caution: Federal law prohibits dispensing without prescription; or (ii) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian or (b) a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by medical practitioners only;

(23) Prescription order or prescription shall mean a lawful written or verbal order of a medical practitioner for a drug or device but shall not include an order for a drug or device which is dispensed for administration to a patient during the patient's stay in a hospital;

(24) Nonprescription drugs shall mean nonnarcotic medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of this state and the federal government;

(25) Public health clinic worker shall mean a person in a public health clinic operating with a drug dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task of dispensing authorized refills of oral contraceptives;

(26) Public health clinic shall mean the department, any county, city-county, or multicounty health department, or any private not-for-profit family planning clinic licensed as a health clinic as defined in section 71-2017.01;

(27) Supervision shall mean the immediate personal guidance and direction by the licensed pharmacist on duty in the facility of the performance by supportive pharmacy personnel of authorized activities or functions subject to verification by such pharmacist, except that when supportive pharmacy personnel perform authorized activities or functions to

assist a pharmacist on duty in the facility when the prescribed drugs or devices will be administered by a licensed staff member or consultant or by a ~~certified~~ licensed physician assistant to patients or residents of a health care facility licensed pursuant to sections 71-2017 to 71-2029, the activities or functions of such supportive pharmacy personnel shall only be subject to verification by a pharmacist on duty in the facility;

(28) Supportive pharmacy personnel shall mean individuals at least eighteen years of age who are high school graduates or officially recognized by the State Department of Education as possessing the equivalent degree of education, who have never been convicted of any drug-related misdemeanor or felony, and who, under the written control procedures and guidelines of an employing pharmacy and who have received onsite training pursuant to subsection (4) of section 71-1,147.33, may perform those functions which do not require the exercise of professional judgment in assisting a pharmacist in connection with the preparation, compounding, dispensing, and distribution of drugs or devices under the supervision of a licensed pharmacist on duty in the facility, when such functions are subject to verification. The ratio of supportive pharmacy personnel allowed to assist one pharmacist in the preparation, compounding, dispensing, and distribution of drugs or devices shall not exceed one-to-one, except that a two-to-one ratio may apply to supportive pharmacy personnel assisting a pharmacist in circumstances when the prescribed drugs or devices will be administered by a licensed staff member or consultant or by a ~~certified~~ licensed physician assistant to patients of a hospital licensed pursuant to sections 71-2017 to 71-2029. Under no circumstances shall the ratio exceed two supportive pharmacy personnel to one supervising pharmacist;

(29) Verification shall mean the confirmation by the supervising pharmacist of the accuracy and completeness of the acts, tasks, or functions undertaken by supportive pharmacy personnel to assist the pharmacist in the practice of pharmacy. Verification by the supervising pharmacist shall be documented prior to the time when the drug or device is dispensed; and

(30) Written control procedures and guidelines shall mean the document prepared by an employing pharmacy and approved by the board which specifies the manner in which the qualifications of supportive pharmacy personnel employed by the pharmacy are determined, the manner in which the training of such personnel is conducted and their basic level of competency is confirmed, the manner in which supervision is provided, the manner in which the functions of supportive pharmacy personnel are verified, and a protocol governing the use of supportive pharmacy personnel and the functions which they may perform.

Sec. 15. Section 71-1,143, Revised Statutes Supplement, 1994, is amended to read:

71-1,143. Sections 71-1,142 and 71-1,147 shall not be construed to include persons who:

(1) Sell, offer, or expose for sale completely denatured alcohol or concentrated lye, insecticides, and fungicides in original packages;

(2) Are medical practitioners who dispense drugs and medicines as an incident to the practice of their profession but shall not exempt such a practitioner, other than a licensed veterinarian, who regularly engages in dispensing such drugs or medicinal substances to his or her patients for which such patients are charged either separately or together with charges for other professional services, from obtaining a pharmacy permit and complying with all record-keeping, dispensing, labeling, and other requirements of the practice of pharmacy as set forth in this section and sections 71-1,142, 71-1,145 to 71-1,147.01, 71-1,147.03, 71-1,147.07 to 71-1,147.10, 71-1,147.15, ~~and~~ 71-1,147.16, and 71-1,147.35 or by federal and state laws as they pertain to the regulation of the practice of pharmacy. Such regular and routine dispensing shall not be considered to be incident to practice, nor may such a practitioner delegate such dispensing to any other person;

(3) Sell, offer, or expose for sale nonprescription drugs or proprietary medicines, the sale of which is not in itself a violation of the law relating to intoxicating liquors;

(4) Are known as medical representatives, detail persons, or by some name of like import, but only to the extent of permitting the relating of pharmaceutical information to health care practitioners;

(5) Are licensed veterinarians; and

(6) Are authorized by sections 71-1,147.39 to 71-1,147.61 to dispense authorized refills of oral contraceptives in a public health clinic operating with a drug dispensing permit.

Sec. 16. Section 71-1,147, Revised Statutes Supplement, 1994, is amended to read:

71-1,147. (1) Except as provided in sections 71-1,147.33 and

71-1,147.53, no person other than a licensed pharmacist or a pharmacy intern shall, as described in sections 71-1,142, 71-1,143, and 71-1,147 to 71-1,147.14, provide pharmaceutical care, compound and dispense drugs or devices, or ~~and~~ fill the prescription of a medical practitioner. Notwithstanding any other provision of law to the contrary, a licensed pharmacist or pharmacy intern may dispense drugs or devices pursuant to a prescription of a practitioner authorized to prescribe in another state if such practitioner could be authorized to prescribe such drugs or devices in this state.

(2) Except as provided in section 28-414, no prescription may be filled or refilled more than twelve months after the date of issuance of the prescription.

(3) Except as provided in sections 71-1,147.33 and 71-1,147.53, it shall be unlawful for any person to permit or direct a person who is not a pharmacy intern or licensed pharmacist to provide pharmaceutical care, compound and dispense drugs or devices, or fill the prescription of a medical practitioner.

(4) It shall be unlawful for any person to coerce a pharmacist to supervise any supportive pharmacy personnel for any purpose or in any manner contrary to the professional judgment of the pharmacist. Violation of this subsection by a licensed pharmacist shall be considered an act of unprofessional conduct for purposes of section 71-147. A violation of this subsection shall be prima facie evidence in an action against the permit of any pharmacy in which such violation occurred.

(5) For purposes of this section, nothing in this section shall be construed to prohibit any registered nurse employed by a hospital from administering single doses of drugs from original drug containers or properly labeled prepackaged drug containers to any patient of the hospital upon the order or prescription of a medical practitioner or to prohibit such registered nurse employed by a hospital from procuring the original drug container or properly labeled prepackaged drug container for the purpose of single-dose drug administration to any patient of the hospital upon the order or prescription of a medical practitioner.

(6) Violation of this section by an unlicensed person shall be a Class III misdemeanor.

Sec. 17. Section 71-1,147.09, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.09. To protect the health, safety, and welfare of the public, to ensure to the greatest extent possible the accurate, efficient, and safe practice of pharmacy, to ensure that ~~prescription~~ prescribed drugs and devices conform to the orders authorizing their dispensing or administration, and to implement sections 28-1437 to 28-1439.01, 71-1,142 to 71-1,147.33, 71-2401 to 71-2405, and 71-2501 to 71-2512, the Mail Service Prescription Drug Act, the Nebraska Drug Product Selection Act, and the Uniform Controlled Substances Act, the department, upon the recommendation of the board, shall adopt and promulgate rules and regulations:

(1) For the enforcement of sections 71-1,142 to 71-1,147.38;

(2) To establish minimum requirements regarding adequate facilities for the safe storage of narcotic drugs and other drugs requiring refrigeration or other special storage;

(3) For equipment, facilities, and utilities for the prescription department;

(4) To establish minimum standards governing sanitation, orderliness, cleanliness, library requirements, ventilation, and prescription and other record keeping;

(5) To establish minimum standards governing the definition and application of computers or other electronic record systems in pharmacy;

(6) To establish minimum standards for the practice of nuclear pharmacy;

(7) To establish minimum standards for the dispensing of drugs or devices in unit-dose and modified unit-dose ~~or unit-of-use~~ containers;

(8) To establish minimum standards for compounding, dispensing, and administering sterile products;

(9) To establish minimum standards governing the inspection of pharmacies to demonstrate compliance with sections 28-1437 to 28-1439.01, 71-1,142 to 71-1,147.38, 71-2401 to 71-2405, and 71-2501 to 71-2512, the Nebraska Drug Product Selection Act, and the Uniform Controlled Substances Act and such rules and regulations as are adopted and promulgated by the department pursuant to such sections and acts. Such standards shall include, but not be limited to: (a) Criteria for successful completion of an opening inspection; (b) criteria for successful completion of an annual inspection; and (c) criteria for the issuance of a written warning notice listing specific

violations to which the permittee shall respond in writing to the department, by the date stated on the warning notice, stating that the violations listed in the warning notice have been corrected;

(10) To establish minimum standards governing patient counseling, patient information, and communications to a patient;

(11) To establish minimum standards for the terms and provisions of the written control procedures and guidelines required by subsection (4) of section 71-1,147.33 as they relate to the qualifications, onsite training, functions, and supervision of supportive pharmacy personnel;

(12) To establish standards and guidelines for the identification of supportive pharmacy personnel as such while they are performing duties in a pharmacy; and

(13) To establish minimum standards and guidelines for the documentation of the verification of the acts, tasks, or functions of supportive pharmacy personnel.

The minimum standards and requirements for the practice of pharmacy and for public or private hospital pharmacies licensed by the department shall be consistent with the minimum requirements and standards established by the department under sections 71-2017 to 71-2029.

Sec. 18. Section 71-1,147.53, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.53. Under a drug dispensing permit, approved formulary drugs and devices may be dispensed by a public health clinic worker or a health care professional licensed in Nebraska to practice medicine and surgery or licensed ~~or certified~~ in Nebraska as a registered nurse, licensed practical nurse, or physician assistant without the onsite services of a pharmacist if:

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

(2) The drug or device is dispensed pursuant to a prescription written by a medical practitioner;

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

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

(5) The dispensing of authorized refills of oral contraceptives is done by a licensed ~~or certified~~ health care professional listed in subdivision (1) of this section or by a public health clinic worker who meets the requirements provided in sections 71-1,147.54 to 71-1,147.56;

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

(7) All drugs and devices stored, received, or dispensed by public health clinics are properly labeled at all times. Properly labeled shall mean that the label affixed to the container prior to dispensing contains the following information:

(a) The name of the manufacturer;

(b) The lot number and expiration date from the manufacturer or, if prepackaged by a pharmacist, the lot number and calculated expiration date. Calculated expiration date shall mean an expiration date on the prepackaged product which is not greater than twenty-five percent of the time between the date of repackaging and the expiration date of the bulk container nor greater than six months from the date of repackaging;

(c) Directions for patient use;

(d) The quantity of drug inside;

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

(f) Auxiliary labels as needed for proper drug compliance;

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

(a) The patient's name;

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

(c) The prescription number; and

(d) The date dispensed;

(9) The only drugs and devices allowed to be dispensed or stored by public health clinics appear on the formulary approved pursuant to section 71-1,147.48; and

(10) At any time that dispensing is occurring from a public health clinic, the consultant pharmacist for the public health clinic or any other actively practicing pharmacist licensed to practice pharmacy in Nebraska is

available, either in person or by telephone, to answer questions from clients, staff, public health clinic workers, or volunteers. This availability shall be confirmed and documented at the beginning of each day that dispensing will occur. The consultant pharmacist or practicing pharmacist shall inform the public health clinic if he or she will not be available during the time that his or her availability is required. If a pharmacist is unavailable, no dispensing shall occur.

Sec. 19. Section 71-1,147.56, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.56. The public health clinic worker shall demonstrate proficiency, according to the standards determined by the department, to the consultant pharmacist upon completion of training. Documentation of proficiency shall be maintained in the employee's personnel file and in the policy and procedure manual.

The public health clinic worker shall be supervised with documentation by one of the licensed ~~or certified~~ health care professionals specified in subdivision (1) of section 71-1,147.53 for the first month that dispensing of authorized refills of oral contraceptives occurs. The public health clinic for which a public health clinic worker is working shall be liable for acts or omissions on the part of the public health clinic worker.

Following initial training and proficiency demonstration, the public health clinic worker shall demonstrate proficiency to the consultant pharmacist at least annually or as requested by the consultant pharmacist.

The public health clinic worker shall attend a two-hour inservice program regarding oral contraceptives taught by a pharmacist at least once a year, and more often as necessary, with documentation of attendance maintained in the employee's personnel file and in the policy and procedure manual.

Sec. 20. Section 71-1,147.57, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.57. Each person licensed to practice medicine and surgery or as a physician assistant and each person certified as a ~~physician assistant,~~ nurse practitioner, or nurse midwife who works in a public health clinic operating with a drug dispensing permit shall have two hours of training provided by a licensed, actively practicing pharmacist in the following:

(1) Procedures for dispensing initial prescriptions and authorized refills of oral contraceptives;

(2) Procedures for dispensing approved drugs and devices;

(3) Federal and state laws regarding drug dispensing;

(4) Proper labeling of oral contraceptives and approved drugs and devices;

(5) Proper record keeping of initial and refilled prescriptions;

(6) Use of Volumes I and II of the United States Pharmacopeia-Drug Information;

(7) Proper pharmacist referral;

(8) Procedures for reaching the on-call pharmacist;

(9) Storage and security of approved formulary drugs and devices; and

(10) Patient information.

Sec. 21. Section 71-3508, Revised Statutes Supplement, 1995, is amended to read:

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 as required under rules and regulations adopted under the Radiation Control Act.

(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 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, osteopathic physicians, physician assistants, and veterinarians ~~or certified as physician assistants~~ shall be exempt from the rules and regulations of the department pertaining to the qualifications of persons for the use of X-ray radiation-generating equipment operated for diagnostic purposes.

Sec. 22. Section 71-5108, Revised Statutes Supplement, 1995, is amended to read:

71-5108. (1) No ambulance shall be licensed to transport any patient upon any street, road, highway, or public way in the State of Nebraska unless such ambulance, when so transporting patients, is occupied by at least one certified ambulance attendant. Such requirement shall be met if any of the individuals providing the service is a licensed physician, registered nurse, ~~certified~~ licensed physician assistant, or licensed practical nurse as specified in section 71-5108.01 rather than a certified ambulance attendant. A ~~certified~~ licensed physician assistant as defined in section 71-1,107.16 providing the service shall be entitled to provide all services authorized under sections 71-1,107.15 to 71-1,107.30.

(2) No emergency medical technician-A/D service shall be licensed to transport any patient upon any street, road, highway, or public way in this state unless at least one certified emergency medical technician is present on all runs to assist an emergency medical technician-A/D at the scene and during transportation.

(3) A first responder-A/D shall accompany the patient in an ambulance to operate the defibrillator and assist the certified ambulance attendants if the ambulance is not licensed to provide defibrillator services.

Sec. 23. Section 71-5109, Revised Statutes Supplement, 1995, is amended to read:

71-5109. (1) Application for a certificate of competency from the department to act as a certified ambulance attendant shall be made upon forms prepared by the department and shall contain such information as the department, with the approval of the board, deems necessary.

(2) In order to qualify for a certificate of competency to act as an ambulance attendant, a person shall:

(a) Be at least eighteen years of age;

(b) Be of good moral character;

(c) Have a current cardiopulmonary resuscitation certificate which was issued by an organization approved by the division; and

(d)(i) Within two years prior to application, successfully pass a United States Department of Transportation One Hundred and Ten Hour Emergency Medical Technician Course conducted by an institution, agency, corporation, or individual reviewed by the department and approved by the board and receive a grade of at least seventy percent on the final examination prepared by the division;

(ii) If a United States Department of Transportation One Hundred and Ten Hour Emergency Medical Technician Course has been taken more than two years prior to application, successfully pass an emergency medical technician refresher course conducted by an institution, agency, corporation, or individual reviewed by the department and approved by the board and receive a grade of at least seventy percent on the final examination prepared by the division;

(iii) Hold a certificate of successful completion of a United States Department of Transportation One Hundred and Ten Hour Emergency Medical Technician Course conducted in a state other than Nebraska which required passage of a written and practical examination and hold a current certification or license from another state;

(iv) Be licensed ~~or certified~~ in Nebraska as a registered nurse, licensed practical nurse, or ~~certified~~ physician assistant and have successfully completed the Prehospital Emergency Care Course for Nurses approved by the division and received a grade of at least seventy percent on the final examination prepared by the division;

(v) Hold a current certificate from the National Emergency Medical Technician Registry; or

(vi) Be a currently certified first responder in Nebraska and successfully complete a Seventy-Hour First Responder-Emergency Medical Technician Bridge Course developed by the department and conducted by an institution, agency, corporation, or individual reviewed by the department and approved by the board and receive a grade of at least seventy percent on the final examination approved by the division.

(3) The department shall adopt and promulgate rules and regulations setting minimum standards for courses of ambulance attendant training, including instructor certification, record keeping, examinations and their development and security, and other aspects of administration. The department may approve courses of training developed by associations, educational institutions, or other entities if such courses meet the requirements of this section and the criteria prescribed in the rules and regulations.

(4) Certificates of competency to act as certified ambulance attendants shall be issued by the department for the calendar years applied for and shall expire at midnight on December 31 of the third year after issuance. A certificate holder who requests recertification shall present evidence of (a) completion of thirty hours of continuing education in a combination of the skills, knowledge, or clinical experience which are the subject matters of a United States Department of Transportation One Hundred and Ten Hour Emergency Medical Technician Course approved by the division, (b) maintenance of current cardiopulmonary resuscitation certification issued by an organization approved by the division, and (c) certification by a local training officer, rescue captain, fire chief, or ambulance chief. The department shall notify by letter each certificate holder and the ambulance service of record of such certificate holder at least ninety days prior to the expiration of the certificate of competency to act as an ambulance attendant.

(5) The department shall, within thirty days after receipt of an application, make such investigation as is deemed necessary of the applicant for a certificate of competency as a certified ambulance attendant and, if deemed competent, shall issue a certificate of competency therefor, valid until midnight of December 31 of the third year after issuance.

(6) If a certificate of competency has been expired for less than two years, it may be renewed by presenting evidence of the completion during the preceding three years of thirty hours of continuing education in a combination of the skills, knowledge, or clinical experience which are the subject matters of an emergency medical technician course. If a certificate of competency has been expired for more than two years, it may be renewed by presenting evidence of the completion of an emergency medical technician refresher course conducted by a training agency approved by the division and the receipt of a grade of at least seventy percent on the final examination prepared by the division.

(7) The department shall establish criteria for approval of organizations issuing cardiopulmonary resuscitation certification which shall include criteria for instructors, establishment of certification periods and minimum curricula, and other aspects of training and certification.

Sec. 24. Section 71-5111, Revised Statutes Supplement, 1995, is amended to read:

71-5111. No certified ambulance attendant, emergency medical technician, emergency medical technician-A/D, emergency medical technician-AM, emergency medical technician-IV, first responder-A/D, ~~certified~~ licensed physician assistant, registered nurse, or licensed practical nurse who provides public emergency care, ambulance service, rescue service, or first responder service shall be liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of his or her rendering in good faith any such service. Nothing in this section shall be deemed to grant any such immunity for liability arising out of the operation of any motor vehicle, aircraft, or boat or while such person was impaired by alcoholic liquor or any controlled substance enumerated in section 28-405, in connection with such service, nor shall immunity apply to any person causing damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission.

Sec. 25. Section 71-7001, Revised Statutes Supplement, 1995, is amended to read:

71-7001. For purposes of sections 71-7001 to 71-7013:

(1) Department means the Department of Health;

(2) Mammogram means the X-ray resulting from mammography;

(3) Mammography means radiological examination of the breast for the purpose of obtaining a mammogram which enables a physician to assess the presence, size, location, and extent of cancerous or potentially cancerous tissue;

(4) Mammogram supplier means a public, private, for-profit, or not-for-profit agency or health care facility that provides mammography;

(5) Screening mammogram means the X-ray resulting from screening mammography;

(6) Screening mammography means radiological examination of the breast of asymptomatic women for the early detection of breast cancer, which examination includes (a) a cranio-caudal and a medial lateral oblique view of

each breast and (b) a licensed radiologist's interpretation of the results of the procedure. Screening mammography does not include diagnostic mammography, additional projections required for lesion definition, breast ultrasound, or any breast interventional procedure;

(7) Medical radiographer means a person licensed pursuant to subsection (1) of section 71-3515.01, other than a licensed practitioner or a ~~certified~~ licensed physician assistant, who practices medical radiography under the supervision of a licensed practitioner;

(8) False negative result means a mammogram which indicates no possible cancer when a cancer exists;

(9) False positive result means a mammogram which indicates a possible cancer when none exists;

(10) Professional component means the interpretation of a screening mammogram and a written report regarding the interpretation provided by a mammogram supplier; and

(11) Technical component means a screening mammogram and all other services provided by a mammogram supplier.

Sec. 26. Original sections 28-401, 28-410, 28-412, 28-414, 28-1437, 71-124.01, 71-129, 71-1,107.19, 71-1,107.25, 71-1,107.26, and 71-1,107.29, Reissue Revised Statutes of Nebraska, sections 71-1,107.16, 71-1,107.17, 71-1,142, 71-1,143, 71-1,147, 71-1,147.09, 71-1,147.53, 71-1,147.56, and 71-1,147.57, Revised Statutes Supplement, 1994, and sections 71-3508, 71-5108, 71-5109, 71-5111, and 71-7001, Revised Statutes Supplement, 1995, are repealed.

Sec. 27. Since an emergency exists, this act takes effect when passed and approved according to law.