

LEGISLATIVE BILL 1034

Approved by the Governor April 23, 2018

Introduced by Riepe, 12.

See p. 19 for information about elimination of facility licenses for outpatient Substance Abuse Treatment Centers

A BILL FOR AN ACT relating to public health and welfare; to amend sections 38-122, 38-131, 38-321, 38-1201, 38-1204, 38-1205, 38-1208, 38-1215, 38-1216, 38-1219, 38-1221, 38-1224, 38-1225, 38-1229, 38-1232, 38-1237, 38-2025, 38-2026, 38-2104, 38-2112, 38-2115, 38-2117, 38-2122, 38-2123, 38-2124, 38-2518, 38-2519, 38-2521, 38-2826.01, 38-3101, 38-3111, 44-772, 44-792, 69-2429, 71-423, 71-430, 71-507, 71-906, and 71-1913, Reissue Revised Statutes of Nebraska, sections 71-403, 71-413, 71-474, 71-1908, 71-2411, 71-4204, 71-4205, 71-4209, and 77-2704.12, Revised Statutes Cumulative Supplement, 2016, and sections 28-401, 28-470, 29-2261, 38-319, 38-1217, 38-1218, 38-2125, 71-401, 71-2445, and 71-2454, Revised Statutes Supplement, 2017; to define and redefine terms; to change provisions relating to credentialing under the Uniform Credentialing Act, licensure under the Health Care Facility Licensure Act and the Child Care Licensing Act, the prescription drug monitoring system, and the Stroke System of Care Act; to change provisions of the Emergency Medical Services Practice Act as prescribed; to adopt the EMS Personnel Licensure Interstate Compact and the Psychology Interjurisdictional Compact; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 28-401, Revised Statutes Supplement, 2017, is amended to read:

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

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

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

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

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

(5) Counterfeit substance means 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 means the Department of Health and Human Services;

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

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

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

(10) Prescribe means to issue a medical order;

(11) Drug means (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 does not include devices or their components, parts, or accessories;

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

(13) Marijuana means 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 does 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, the sterilized seed of such plant which is incapable of germination, or cannabidiol contained in a drug product approved by the federal Food and Drug Administration or obtained pursuant to sections 28-463 to 28-468. When the weight of marijuana is referred to in the Uniform Controlled Substances Act, it means 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. When industrial hemp as defined in section 2-5701 is in the possession of a person as authorized under section 2-5701, it is not considered marijuana for purposes of the Uniform Controlled Substances Act;

(14) Manufacture means the production, preparation, propagation, conversion, 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 includes any packaging or repackaging of the substance or labeling or relabeling of its container. Manufacture does not include the preparation or compounding of a controlled substance by an individual for his or her own use, except for the preparation or compounding of components or ingredients used for or intended to be used for the manufacture of methamphetamine, or the preparation, compounding, conversion, 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;

(15) Narcotic drug means 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 the Uniform Controlled Substances Act does not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

(16) Opiate means 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 does not include the dextrorotatory isomer of 3-methoxy-n methylmorphinan and its salts. Opiate includes its racemic and levorotatory forms;

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

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

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

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

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

(22) Immediate precursor means 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;

(23) State means the State of Nebraska;

(24) Ultimate user means 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;

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

(26) Cooperating individual means 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;

(27) Hashish or concentrated cannabis means (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. When resins extracted from industrial hemp as defined in section 2-5701 are in the possession of a person as authorized under section 2-5701, they are not considered hashish or concentrated cannabis for purposes of the Uniform Controlled Substances Act;

(28) Exceptionally hazardous drug means (a) a narcotic drug, (b) thiophene

analog of phencyclidine, (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h) methamphetamine;

(29) Imitation controlled substance means a substance which is not a controlled substance or controlled substance analogue 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 or controlled substance analogue. 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;

(30)(a) Controlled substance analogue means a substance (i) 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 (ii) 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 the Uniform Controlled Substances Act; and

(b) Controlled substance analogue does not include (i) a controlled substance, (ii) any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2014, (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, as such section existed on January 1, 2014, to the extent conduct with respect to such substance is pursuant to such exemption;

(31) Anabolic steroid means 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 does 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;

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

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

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

(35) Registrant means any person who has a controlled substances registration issued by the state or the Drug Enforcement Administration of the United States Department of Justice;

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

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

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

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

(40) Electronic transmission means transmission of information in electronic form. Electronic transmission includes computer-to-computer transmission or computer-to-facsimile transmission;

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

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

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

(44) Lookalike substance means a product or substance, not specifically designated as a controlled substance in section 28-405, that is either portrayed in such a manner by a person to lead another person to reasonably believe that it produces effects on the human body that replicate, mimic, or are intended to simulate the effects produced by a controlled substance or that

possesses one or more of the following indicia or characteristics:

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

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

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

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

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

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

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

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

Sec. 2. Section 28-470, Revised Statutes Supplement, 2017, is amended to read:

28-470 (1) A health professional who is authorized to prescribe or dispense naloxone, if acting with reasonable care, may prescribe, administer, or dispense naloxone to any of the following persons without being subject to administrative action or criminal prosecution:

(a) A person who is apparently experiencing or who is likely to experience an opioid-related overdose; or

(b) A family member, friend, or other person in a position to assist a person who is apparently experiencing or who is likely to experience an opioid-related overdose.

(2) A family member, friend, or other person who is in a position to assist a person who is apparently experiencing or who is likely to experience an opioid-related overdose, other than an emergency responder or peace officer, is not subject to actions under the Uniform Credentialing Act, administrative action, or criminal prosecution if the person, acting in good faith, obtains naloxone from a health professional or a prescription for naloxone from a health professional and administers the naloxone obtained from the health professional or acquired pursuant to the prescription to a person who is apparently experiencing an opioid-related overdose.

(3) An emergency responder who, acting in good faith, obtains naloxone from the emergency responder's emergency medical service organization and administers the naloxone to a person who is apparently experiencing an opioid-related overdose shall not be:

(a) Subject to administrative action or criminal prosecution; or

(b) Personally 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 such care or services or arising out of his or her failure to act to provide or arrange for further medical treatment or care for the person who is apparently experiencing an opioid-related overdose, unless the emergency responder caused damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission. This subdivision shall not affect the liability of such emergency medical service organization for the emergency responder's acts of commission or omission.

(4) A peace officer who, acting in good faith, obtains naloxone from the peace officer's law enforcement agency and administers the naloxone to a person who is apparently experiencing an opioid-related overdose shall not be:

(a) Subject to administrative action or criminal prosecution; or

(b) Personally 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 such care or services or arising out of his or her failure to act to provide or arrange for further medical treatment or care for the person who is apparently experiencing an opioid-related overdose, unless the peace officer caused damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission. This subdivision shall not affect the liability of such law enforcement agency for the peace officer's acts of commission or omission.

(5) For purposes of this section:

(a) Administer has the same meaning as in section 38-2806;

(b) Dispense has the same meaning as in section 38-2817;

(c) Emergency responder means an emergency medical responder, an emergency

medical technician, an advanced emergency medical technician, or a paramedic licensed under the Emergency Medical Services Practice Act or practicing pursuant to the EMS Personnel Licensure Interstate Compact;

(d) Health professional means a physician, physician assistant, nurse practitioner, or pharmacist licensed under the Uniform Credentialing Act;

(e) Law enforcement agency means a police department, a town marshal, the office of sheriff, or the Nebraska State Patrol;

(f) Naloxone means naloxone hydrochloride; and

(g) Peace officer has the same meaning as in section 49-801.

Sec. 3. Section 29-2261, Revised Statutes Supplement, 2017, is amended to read:

29-2261 (1) Unless it is impractical to do so, when an offender has been convicted of a felony other than murder in the first degree, the court shall not impose sentence without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation. When an offender has been convicted of murder in the first degree and (a) a jury renders a verdict finding the existence of one or more aggravating circumstances as provided in section 29-2520 or (b)(i) the information contains a notice of aggravation as provided in section 29-1603 and (ii) the offender waives his or her right to a jury determination of the alleged aggravating circumstances, the court shall not commence the sentencing determination proceeding as provided in section 29-2521 without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation.

(2) A court may order a presentence investigation in any case, except in cases in which an offender has been convicted of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic infraction, or any corresponding city or village ordinance.

(3) The presentence investigation and report shall include, when available, an analysis of the circumstances attending the commission of the crime, the offender's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, and personal habits, and any other matters that the probation officer deems relevant or the court directs to be included. All local and state police agencies and Department of Correctional Services adult correctional facilities shall furnish to the probation officer copies of such criminal records, in any such case referred to the probation officer by the court of proper jurisdiction, as the probation officer shall require without cost to the court or the probation officer.

Such investigation shall also include:

(a) Any written statements submitted to the county attorney by a victim; and

(b) Any written statements submitted to the probation officer by a victim.

(4) If there are no written statements submitted to the probation officer, he or she shall certify to the court that:

(a) He or she has attempted to contact the victim; and

(b) If he or she has contacted the victim, such officer offered to accept the written statements of the victim or to reduce such victim's oral statements to writing.

For purposes of subsections (3) and (4) of this section, the term victim shall be as defined in section 29-119.

(5) Before imposing sentence, the court may order the offender to submit to psychiatric observation and examination for a period of not exceeding sixty days or such longer period as the court determines to be necessary for that purpose. The offender may be remanded for this purpose to any available clinic or mental hospital, or the court may appoint a qualified psychiatrist to make the examination. The report of the examination shall be submitted to the court.

~~(6)(a) (6)~~ Any presentence report, substance abuse evaluation, or psychiatric examination shall be privileged and shall not be disclosed directly or indirectly to anyone other than a judge; ~~probation officers to whom an offender's file is duly transferred; the probation administrator or his or her designee; alcohol and drug counselors, mental health practitioners, psychiatrists, and psychologists licensed or certified under the Uniform Credentialing Act to conduct substance abuse evaluations and treatment; or~~ others entitled by law to receive such information, including personnel and mental health professionals for the Nebraska State Patrol specifically assigned to sex offender registration and community notification for the sole purpose of using such report, evaluation, or examination for assessing risk and for community notification of registered sex offenders.

~~(b)~~ For purposes of this subsection, mental health professional means ~~(i)~~ ~~(a)~~ a practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act, ~~(ii)~~ ~~(b)~~ a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided under similar provisions of the Psychology Interjurisdictional Compact, or ~~(iii)~~ ~~(c)~~ a practicing mental health professional licensed or certified in this state as provided in the Mental Health Practice Act.

(7) The court shall permit inspection of the presentence report, substance abuse evaluation, or psychiatric examination or parts of the report, evaluation, or examination, as determined by the court, by the prosecuting attorney and defense counsel. Beginning July 1, 2016, such inspection shall be by electronic access only unless the court determines such access is not available to the prosecuting attorney or defense counsel. The State Court

Administrator shall determine and develop the means of electronic access to such presentence reports, evaluations, and examinations. Upon application by the prosecuting attorney or defense counsel, the court may order that addresses, telephone numbers, and other contact information for victims or witnesses named in the report, evaluation, or examination be redacted upon a showing by a preponderance of the evidence that such redaction is warranted in the interests of public safety. The court may permit inspection of the presentence report, substance abuse evaluation, or psychiatric examination or examination of parts of the report, evaluation, or examination by any other person having a proper interest therein whenever the court finds it is in the best interest of a particular offender. The court may allow fair opportunity for an offender to provide additional information for the court's consideration.

(8) If an offender is sentenced to imprisonment, a copy of the report of any presentence investigation, substance abuse evaluation, or psychiatric examination shall be transmitted immediately to the Department of Correctional Services. Upon request, the Board of Parole or the Office of Parole Administration may receive a copy of the report from the department.

(9) Notwithstanding subsections (6) and (7) of this section, the Supreme Court or an agent of the Supreme Court acting under the direction and supervision of the Chief Justice shall have access to psychiatric examinations, substance abuse evaluations, and presentence investigations and reports for research purposes. The Supreme Court and its agent shall treat such information as confidential, and nothing identifying any individual shall be released.

Sec. 4. Section 38-122, Reissue Revised Statutes of Nebraska, is amended to read:

38-122 Every initial credential to practice a profession or engage in a business shall be in the form of a document under the name of the department ~~and signed by the director, the Governor, and the officers of the appropriate board, if any.~~

Sec. 5. Section 38-131, Reissue Revised Statutes of Nebraska, is amended to read:

38-131 (1) An applicant for an initial license to practice as a registered nurse, ~~or a licensed practical nurse, a psychologist, an advanced emergency medical technician, an emergency medical technician, or a paramedic~~ or to practice a profession which is authorized to prescribe controlled substances shall be subject to a criminal background check. A criminal background check may also be required for initial licensure or reinstatement of a license governed by the Uniform Credentialing Act if a criminal background check is required by an interstate licensure compact. Except as provided in subsection (3) of this section, the applicant shall submit with the application a full set of fingerprints which shall be forwarded to the Nebraska State Patrol to be submitted to the Federal Bureau of Investigation for a national criminal history record information check. The applicant shall authorize release of the results of the national criminal history record information check to the department. The applicant shall pay the actual cost of the fingerprinting and criminal background check.

(2) This section shall not apply to a dentist who is an applicant for a dental locum tenens under section 38-1122, to a physician or osteopathic physician who is an applicant for a physician locum tenens under section 38-2036, or to a veterinarian who is an applicant for a veterinarian locum tenens under section 38-3335.

(3) An applicant for a temporary educational permit as defined in section 38-2019 shall have ninety days from the issuance of the permit to comply with subsection (1) of this section and shall have his or her permit suspended after such ninety-day period if the criminal background check is not complete or revoked if the criminal background check reveals that the applicant was not qualified for the permit.

Sec. 6. Section 38-319, Revised Statutes Supplement, 2017, is amended to read:

38-319 The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to an individual who (1) meets the requirements of the Alcohol and Drug Counseling Practice Act, (2) meets or substantially equivalent requirements as determined by the department, with the recommendation of the board, or (3) holds a license or certification that is current in another jurisdiction that authorizes the applicant to provide alcohol and drug counseling, has at least two hundred seventy hours of alcohol and drug counseling education, has at least three years of full-time alcohol and drug counseling practice following initial licensure or certification in the other jurisdiction, and has passed an alcohol and drug counseling examination. An applicant who is a military spouse may apply for a temporary license as provided in section 38-129.01.

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

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

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

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

(3) ~~(c)~~ The rights of clients to gain access to their records, except that records relating to substance abuse may be withheld from a client if an alcohol and drug counselor determines, in his or her professional opinion, that release

of the records to the client would not be in the best interest of the client or would pose a threat to another person, unless the release of the records is required by court order;

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

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

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

Sec. 8. Section 38-1201, Reissue Revised Statutes of Nebraska, is amended to read:

38-1201 Sections 38-1201 to 38-1237 and sections 10, 12, 13, 14, 16, 17, and 22 of this act shall be known and may be cited as the Emergency Medical Services Practice Act.

Sec. 9. Section 38-1204, Reissue Revised Statutes of Nebraska, is amended to read:

38-1204 For purposes of the Emergency Medical Services Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-1205 to 38-1214 and sections 10, 12, 13, 14, 16, and 17 of this act apply.

Sec. 10. Advanced emergency medical technician practice of out-of-hospital emergency medical care means care provided in accordance with the knowledge and skill acquired through successful completion of an approved program for an advanced emergency medical technician. Such care includes, but is not limited to, (1) all of the acts that an emergency medical technician is authorized to perform and (2) complex interventions, treatments, and pharmacological interventions.

Sec. 11. Section 38-1205, Reissue Revised Statutes of Nebraska, is amended to read:

38-1205 Ambulance means any privately or publicly owned motor vehicle or aircraft that is especially designed, constructed or modified, and equipped and is intended to be used and is maintained or operated for the overland or air transportation of patients upon the streets, roads, highways, airspace, or public ways in this state, ~~including funeral coaches or hearses,~~ or any other motor vehicles or aircraft used for such purposes.

Sec. 12. Emergency medical responder practice of out-of-hospital emergency medical care means care provided in accordance with the knowledge and skill acquired through successful completion of an approved program for an emergency medical responder. Such care includes, but is not limited to, (1) contributing to the assessment of the health status of an individual, (2) simple, noninvasive interventions, and (3) minimizing secondary injury to an individual.

Sec. 13. Emergency medical technician practice of out-of-hospital emergency medical care means care provided in accordance with the knowledge and skill acquired through successful completion of an approved program for an emergency medical technician. Such care includes, but is not limited to, (1) all of the acts that an emergency medical responder can perform, and (2) simple invasive interventions, management and transportation of individuals, and nonvisualized intubation.

Sec. 14. Emergency medical technician-intermediate practice of out-of-hospital emergency medical care means care provided in accordance with the knowledge and skill acquired through successful completion of an approved program for an emergency medical technician-intermediate. Such care includes, but is not limited to, (1) all of the acts that an advanced emergency medical technician can perform, and (2) visualized intubation. This section terminates on December 31, 2025.

Sec. 15. Section 38-1208, Reissue Revised Statutes of Nebraska, is amended to read:

38-1208 Out-of-hospital emergency care provider includes all licensure classifications of emergency care providers established pursuant to the Emergency Medical Services Practice Act. Prior to December 31, 2025, out-of-hospital emergency care provider includes out-of-hospital advanced emergency medical technician, emergency medical responder, emergency medical technician, emergency medical technician-intermediate, and paramedic. On and after December 31, 2025, out-of-hospital emergency care provider includes advanced emergency medical technician, emergency medical responder, emergency medical technician, and paramedic.

Sec. 16. Paramedic practice of out-of-hospital emergency medical care means care provided in accordance with the knowledge and skill acquired through successful completion of an approved program for a paramedic. Such care includes, but is not limited to, (1) all of the acts that an emergency medical technician-intermediate can perform, and (2) surgical cricothyrotomy.

Sec. 17. Practice of out-of-hospital emergency medical care means the performance of any act using judgment or skill based upon the United States Department of Transportation education standards and guideline training requirements, the National Highway Traffic Safety Administration's National Emergency Medical Service Scope of Practice Model and National Emergency Medical Services Education Standards, and permitted practices and procedures for the level of licensure listed in section 38-1217. Such acts include the identification of and intervention in actual or potential health problems of individuals and are directed toward addressing such problems based on actual or perceived traumatic or medical circumstances prior to or during transportation

to a hospital or for routine transportation between health care facilities or services. Such acts are provided under therapeutic regimens ordered by a physician medical director or through protocols as provided by the Emergency Medical Services Practice Act.

Sec. 18. Section 38-1215, Reissue Revised Statutes of Nebraska, is amended to read:

38-1215 (1) The board shall have seventeen members appointed by the Governor with the approval of a majority of the Legislature. The appointees may begin to serve immediately following appointment and prior to approval by the Legislature.

(2)(a) Seven members of the board shall be active out-of-hospital emergency care providers at the time of and for the duration of their appointment, and each shall have at least five years of experience in his or her level of licensure at the time of his or her appointment or reappointment. Of the seven members who are out-of-hospital emergency care providers, two shall be emergency medical responders, two shall be emergency medical technicians, one shall be an advanced emergency medical technician, and two shall be paramedics.

(b) Three of the members shall be qualified physicians actively involved in emergency medical care. At least one of the physician members shall be a board-certified emergency physician, and at least one of the physician members shall specialize in pediatrics.

(c) Five members shall be appointed to include one member who is a representative of an approved training agency, one member who is a physician assistant with at least five years of experience and active in out-of-hospital emergency medical care education, one member who is a registered nurse with at least five years of experience and active in out-of-hospital emergency medical care education, and two public members who meet the requirements of section 38-165 and who have an expressed interest in the provision of out-of-hospital emergency medical care.

(d) The remaining two members shall have any of the qualifications listed in subdivision (a), (b), or (c) of this subsection.

(e) In addition to any other criteria for appointment, among the members of the board appointed after January 1, 2017, there shall be at least three members who are volunteer emergency medical care providers, at least one member who is a paid emergency medical care provider, at least one member who is a firefighter, at least one member who is a law enforcement officer, and at least one member who is active in the Critical Incident Stress Management Program. If a person appointed to the board is qualified to serve as a member in more than one capacity, all qualifications of such person shall be taken into consideration to determine whether or not the diversity in qualifications required in this subsection has been met.

(f) At least five members of the board shall be appointed from each congressional district, and at least one of such members shall be a physician member described in subdivision (b) of this subsection.

(3) Members shall serve five-year terms beginning on December 1 and may serve for any number of such terms. The terms of the members of the board appointed prior to December 1, 2008, shall be extended by two years and until December 1 of such year. Each member shall hold office until the expiration of his or her term. Any vacancy in membership, other than by expiration of a term, shall be filled within ninety days by the Governor by appointment as provided in subsection (2) of this section.

(4) Special meetings of the board may be called by the department or upon the written request of any six members of the board explaining the reason for such meeting. The place of the meetings shall be set by the department.

(5) The Governor upon recommendation of the department shall have power to remove from office at any time any member of the board for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a professional credential may be suspended or revoked pursuant to the Uniform Credentialing Act, or for a lack of license required by the Emergency Medical Services Practice Act.

(6) Except as provided in subsection (5) of this section and notwithstanding subsection (2) of this section, a member of the board who changes his or her licensure classification after appointment or has a licensure classification which is terminated under section 38-1217 or section 14 of this act when such licensure classification was a qualification for appointment shall be permitted to continue to serve as a member of the board until the expiration of his or her term.

Sec. 19. Section 38-1216, Reissue Revised Statutes of Nebraska, is amended to read:

38-1216 In addition to any other responsibilities prescribed by the Emergency Medical Services Practice Act, the board shall:

(1) Promote the dissemination of public information and education programs to inform the public about out-of-hospital emergency medical care and other out-of-hospital medical information, including appropriate methods of medical self-help, first aid, and the availability of out-of-hospital emergency medical services training programs in the state;

(2) Provide for the collection of information for evaluation of the availability and quality of out-of-hospital emergency medical care, evaluate the availability and quality of out-of-hospital emergency medical care, and serve as a focal point for discussion of the provision of out-of-hospital

emergency medical care;

~~(3) Review and comment on all state agency proposals and applications that seek funding for out-of-hospital emergency medical care;~~

(3) (4) Establish model procedures for patient management in out-of-hospital medical emergencies that do not limit the authority of law enforcement and fire protection personnel to manage the scene during an out-of-hospital medical emergency;

(4) (5) Not less than once each five years, undertake a review and evaluation of the act and its implementation together with a review of the out-of-hospital emergency medical care needs of the citizens of the State of Nebraska and submit electronically a report to the Legislature with any recommendations which it may have; and

(5) (6) Identify communication needs of emergency medical services and make recommendations for development of a communications plan for a communications network for out-of-hospital emergency care providers and emergency medical services.

Sec. 20. Section 38-1217, Revised Statutes Supplement, 2017, is amended to read:

38-1217 The board shall adopt rules and regulations necessary to:

(1) Create licensure requirements for advanced emergency medical technicians, emergency medical responders, emergency medical technicians, and paramedics and, until December 31, 2025, create renewal requirements for emergency medical technicians-intermediate. ~~(1)(a) For licenses issued prior to September 1, 2010, create the following licensure classifications of out-of-hospital emergency care providers: (i) First responder; (ii) emergency medical technician; (iii) emergency medical technician-intermediate; and (iv) emergency medical technician-paramedic; and (b) for licenses issued on or after September 1, 2010, create the following licensure classifications of out-of-hospital emergency care providers: (i) Emergency medical responder; (ii) emergency medical technician; (iii) advanced emergency medical technician; and (iv) paramedic. The rules and regulations creating the classifications shall include all the practices and procedures authorized for each classification, training and testing requirements, renewal and reinstatement requirements, and other criteria and qualifications for each classification determined to be necessary for protection of public health and safety. A person holding a license issued prior to September 1, 2010, shall be authorized to practice in accordance with the laws, rules, and regulations governing the license for the term of the license;~~

(2) Provide for temporary licensure of an out-of-hospital emergency care provider who has completed the educational requirements for a licensure classification enumerated in subdivision (1) (4)(b) of this section but has not completed the testing requirements for licensure under such subdivision. A temporary license shall allow the person to practice only in association with a licensed out-of-hospital emergency care provider under physician medical direction and shall be valid until the date on which the results of the next licensure examination are available to the department. The temporary license shall expire immediately if the applicant has failed the examination. In no case may a temporary license be issued for a period extending beyond one year. Such temporary licensure shall be valid for one year or until a license is issued under such subdivision and shall not be subject to renewal. The rules and regulations shall include qualifications and training necessary for issuance of such temporary license, the practices and procedures authorized for a temporary licensee under this subdivision, and supervision required for a temporary licensee under this subdivision. The requirements of this subdivision and the rules and regulations adopted and promulgated pursuant to this subdivision do not apply to a temporary license issued as provided in section 38-129.01;

(3) Provide for temporary licensure of an out-of-hospital emergency care provider relocating to Nebraska, if such out-of-hospital emergency care provider is lawfully authorized to practice in another state that has adopted the licensing standards of the EMS Personnel Licensure Interstate Compact. Such temporary licensure shall be valid for one year or until a license is issued and shall not be subject to renewal. The requirements of this subdivision do not apply to a temporary license issued as provided in section 38-129.01;

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

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

(6) (5) Authorize out-of-hospital emergency care providers to perform any practice or procedure which they are authorized to perform with an emergency medical service other than the service with which they are affiliated when requested by the other service and when the patient for whom they are to render services is in danger of loss of life;

(7) (6) Provide for the approval of training agencies and establish minimum standards for services provided by training agencies;

(8) (7) Provide for the minimum qualifications of a physician medical director in addition to the licensure required by section 38-1212;

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

(10) (9) 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;

(11) (10) Establish renewal and reinstatement requirements for out-of-hospital emergency care providers and emergency medical services and establish continuing competency requirements. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 38-145 which a licensed person may select as an alternative to continuing education. The reinstatement requirements for out-of-hospital emergency care providers shall allow reinstatement at the same or any lower level of licensure for which the out-of-hospital emergency care provider is determined to be qualified;

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

(12) Create licensure, renewal, and reinstatement requirements for emergency medical service instructors. The rules and regulations shall include the practices and procedures for licensure, renewal, and reinstatement;

(13) Establish criteria for emergency medical technicians-intermediate, advanced emergency medical technicians, emergency medical technicians-~~paramedic~~, or paramedics performing activities within their scope of practice at a hospital or health clinic under subsection (3) of section 38-1224. Such criteria shall include, but not be limited to, ~~:(a) Requirements for the orientation of registered nurses, physician assistants, and physicians involved in the supervision of such personnel; (b) supervisory and training requirements for the physician medical director or other person in charge of the medical staff at such hospital or health clinic; and (c) a requirement that such activities shall only be performed at the discretion of, and with the approval of, the governing authority of such hospital or health clinic. For purposes of this subdivision, health clinic has the definition found in section 71-416 and hospital has the definition found in section 71-419; and~~

(14) Establish model protocols for compliance with the Stroke System of Care Act by an emergency medical service and an out-of-hospital emergency care provider; ~~and~~

(15) ~~Establish criteria and requirements for emergency medical technicians-intermediate to renew licenses issued prior to September 1, 2010, and continue to practice after such classification has otherwise terminated under subdivision (1) of this section. The rules and regulations shall include the qualifications necessary to renew emergency medical technicians-intermediate licenses after September 1, 2010, the practices and procedures authorized for persons holding and renewing such licenses, and the renewal and reinstatement requirements for holders of such licenses.~~

Sec. 21. Section 38-1218, Revised Statutes Supplement, 2017, is amended to read:

38-1218 (1) ~~The Legislature adopts all parts of the United States Department of Transportation curricula, including appendices, and skills as the training requirements and permitted practices and procedures for the licensure classifications listed in subdivision (1)(a) of section 38-1217 until modified by the board by rule and regulation. The Legislature adopts the United States Department of Transportation National Emergency Medical Services Education Standards and the National Emergency Medical Services Scope of Practice for the licensure classifications listed in subdivision (1)(b) of section 38-1217 until modified by the board by rule and regulation. The board may approve curricula for the licensure classifications listed in the Emergency Medical Services Practice Act subdivision (1) of section 38-1217.~~

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

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

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

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

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

(3) An applicant for licensure for a licensure classification listed in subdivision (1) (1)(b) of section 38-1217 who is a military spouse may apply for a temporary license as provided in section 38-129.01.

Sec. 22. The board shall review decisions of the Interstate Commission for Emergency Medical Services Personnel Practice established pursuant to the EMS Personnel Licensure Interstate Compact. Upon approval by the commission of any action that will have the result of increasing the cost to the state for membership in the compact, the board may recommend to the Legislature that Nebraska withdraw from the compact.

Sec. 23. Section 38-1219, Reissue Revised Statutes of Nebraska, is amended to read:

38-1219 The department, with the recommendation of the board, shall adopt and promulgate rules and regulations necessary to:

(1) Administer the Emergency Medical Services Practice Act;

~~(2) Provide for curricula which will allow out-of-hospital emergency care providers and users of automated external defibrillators as defined in section 71-51,102 to be trained for the delivery of practices and procedures in units of limited subject matter which will encourage continued development of abilities and use of such abilities through additional authorized practices and procedures;~~

~~(2) (3) Establish procedures and requirements for applications for licensure, renewal, and reinstatement in any of the licensure classifications created pursuant to the Emergency Medical Services Practice Act; , including provisions for issuing an emergency medical responder license to a licensee renewing his or her first responder license after September 1, 2010, and for issuing a paramedic license to a licensee renewing his or her emergency medical technician-paramedic license after September 1, 2010; and~~

~~(3) (4) Provide for the inspection, review, and termination of approval of training agencies. All training for licensure shall be provided through an approved training agency; and -~~

(4) Provide for the inspection, review, and termination of basic life support emergency medical services and advanced life support emergency medical services.

Sec. 24. Section 38-1221, Reissue Revised Statutes of Nebraska, is amended to read:

38-1221 ~~(1) To be eligible for a license under the Emergency Medical Services Practice Act, an individual shall have attained the age of eighteen years and met the requirements established in accordance with subdivision (1), (2), or (15) of section 38-1217.~~

~~(2) All licenses issued under the act other than temporary licenses shall expire the second year after issuance.~~

~~(3) An individual holding a certificate under the Emergency Medical Services Act on December 1, 2008, shall be deemed to be holding a license under the Uniform Credentialing Act and the Emergency Medical Services Practice Act on such date. The certificate holder may continue to practice under such certificate as a license in accordance with the Uniform Credentialing Act until the certificate would have expired under its terms.~~

Sec. 25. Section 38-1224, Reissue Revised Statutes of Nebraska, is amended to read:

38-1224 (1) An out-of-hospital emergency care provider other than a first responder or an emergency medical responder as classified under section 38-1217 may not assume the duties incident to the title or practice the skills of an out-of-hospital emergency care provider unless he or she (a) is acting under the supervision of a licensed health care practitioner or under the direction of a registered nurse and (b) is employed by or serving as a volunteer member of an emergency medical service, a hospital, or a health clinic licensed by the department.

(2) An out-of-hospital emergency care provider may only practice the skills he or she is authorized to employ and which are covered by the license issued to such provider pursuant to the Emergency Medical Services Practice Act or as authorized pursuant to the EMS Personnel Licensure Interstate Compact.

(3) For purposes of this section, licensed health care practitioner means (a) a physician medical director or physician surrogate for purposes of supervision of an out-of-hospital emergency care provider for an emergency medical service or (b) a physician, a physician assistant, or an advance practice registered nurse for purposes of supervision of an out-of-hospital emergency care provider for a hospital or health clinic. A registered nurse may direct an out-of-hospital emergency care provider in a hospital or health clinic.

~~(3) An emergency medical technician-intermediate, an emergency medical technician-paramedic, an advanced emergency medical technician, or a paramedic may volunteer or be employed at a hospital as defined in section 71-419 or a health clinic as defined in section 71-416 to perform activities within his or her scope of practice within such hospital or health clinic under the supervision of a registered nurse, a physician assistant, or a physician. Such activities shall be performed in a manner established in rules and regulations adopted and promulgated by the department, with the recommendation of the board.~~

Sec. 26. Section 38-1225, Reissue Revised Statutes of Nebraska, is amended to read:

38-1225 (1) No patient data received or recorded by an emergency medical service or an out-of-hospital emergency care provider shall be divulged, made public, or released by an emergency medical service or an out-of-hospital emergency care provider, except that patient data may be released for purposes of treatment, payment, and other health care operations as defined and permitted under the federal Health Insurance Portability and Accountability Act

of 1996, as such act existed on January 1, ~~2018~~ 2007, or as otherwise permitted by law. Such data shall be provided to the department for public health purposes pursuant to rules and regulations of the department. For purposes of this section, patient data means any data received or recorded as part of the records maintenance requirements of the Emergency Medical Services Practice Act.

(2) Patient data received by the department shall be confidential with release only (a) in aggregate data reports created by the department on a periodic basis or at the request of an individual, (b) as case-specific data to approved researchers for specific research projects, (c) as protected health information to a public health authority, as such terms are defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, ~~2018~~ 2007, and (d) as protected health information, as defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, ~~2018~~ 2007, to an emergency medical service, to an out-of-hospital emergency care provider, or to a licensed health care facility for purposes of treatment. A record may be shared with the emergency medical service or out-of-hospital emergency care provider that reported that specific record. Approved researchers shall maintain the confidentiality of the data, and researchers shall be approved in the same manner as described in section 81-666. Aggregate reports shall be public documents.

(3) No civil or criminal liability of any kind or character for damages or other relief or penalty shall arise or be enforced against any person or organization by reason of having provided patient data pursuant to this section.

Sec. 27. Section 38-1229, Reissue Revised Statutes of Nebraska, is amended to read:

38-1229 The department, ~~with the recommendation of the board,~~ may issue a license to any individual who has a current certificate from the National Registry of Emergency Medical Technicians. ~~The level of such licensure shall be determined by the board.~~

Sec. 28. Section 38-1232, Reissue Revised Statutes of Nebraska, is amended to read:

38-1232 (1) No out-of-hospital emergency care provider, physician assistant, registered nurse, or licensed practical nurse who provides public emergency care 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 care. Nothing in this subsection 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 care, 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.

(2) No qualified physician or qualified physician surrogate who gives orders, either orally or by communication equipment, to any out-of-hospital emergency care provider at the scene of an emergency, no out-of-hospital emergency care provider following such orders within the limits of his or her licensure, and no out-of-hospital emergency care provider trainee in an approved training program following such orders, shall be liable civilly or criminally by reason of having issued or followed such orders but shall be subject to the rules of law applicable to negligence.

(3) No physician medical director shall incur any liability by reason of his or her use of any unmodified protocol, standing order, operating procedure, or guideline provided by the board pursuant to subdivision (9) ~~(8)~~ of section 38-1217.

Sec. 29. Section 38-1237, Reissue Revised Statutes of Nebraska, is amended to read:

38-1237 It shall be unlawful for any person who has not been licensed pursuant to the Emergency Medical Services Practice Act or authorized pursuant to the EMS Personnel Licensure Interstate Compact to hold himself or herself out as an out-of-hospital emergency care provider, to use any other term to indicate or imply that he or she is an out-of-hospital emergency care provider, or to act as such a provider without a license therefor. It shall be unlawful for any person to operate a training agency for the initial training or renewal or reinstatement of licensure of out-of-hospital emergency care providers unless the training agency is approved pursuant to rules and regulations of the department board. It shall be unlawful for any person to operate an emergency medical service unless such service is licensed.

Sec. 30. Section 38-2025, Reissue Revised Statutes of Nebraska, is amended to read:

38-2025 The following classes of persons shall not be construed to be engaged in the unauthorized practice of medicine:

- (1) Persons rendering gratuitous services in cases of emergency;
- (2) Persons administering ordinary household remedies;
- (3) The members of any church practicing its religious tenets, except that they shall not prescribe or administer drugs or medicines, perform surgical or physical operations, nor assume the title of or hold themselves out to be physicians, and such members shall not be exempt from the quarantine laws of this state;
- (4) Students of medicine who are studying in an accredited school or college of medicine and who gratuitously prescribe for and treat disease under

the supervision of a licensed physician;

(5) Physicians who serve in the armed forces of the United States or the United States Public Health Service or who are employed by the United States Department of Veterans Affairs or other federal agencies, if their practice is limited to that service or employment;

(6) Physicians who are licensed in good standing to practice medicine under the laws of another state when incidentally called into this state or contacted via electronic or other medium for consultation with a physician licensed in this state. For purposes of this subdivision, consultation means evaluating the medical data of the patient as provided by the treating physician and rendering a recommendation to such treating physician as to the method of treatment or analysis of the data. The interpretation of a radiological image by a physician who specializes in radiology is not a consultation;

(7) Physicians who are licensed in good standing to practice medicine in another state but who, from such other state, order diagnostic or therapeutic services on an irregular or occasional basis, to be provided to an individual in this state, if such physicians do not maintain and are not furnished for regular use within this state any office or other place for the rendering of professional services or the receipt of calls;

(8) Physicians who are licensed in good standing to practice medicine in another state and who, on an irregular and occasional basis, are granted temporary hospital privileges to practice medicine and surgery at a hospital or other medical facility licensed in this state;

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

(10) Dentists practicing their profession when licensed and practicing in accordance with the Dentistry Practice Act;

(11) Optometrists practicing their profession when licensed and practicing under and in accordance with the Optometry Practice Act;

(12) Osteopathic physicians practicing their profession if licensed and practicing under and in accordance with sections 38-2029 to 38-2033;

(13) Chiropractors practicing their profession if licensed and practicing under the Chiropractic Practice Act;

(14) Podiatrists practicing their profession when licensed to practice in this state and practicing under and in accordance with the Podiatry Practice Act;

(15) Psychologists practicing their profession when licensed to practice in this state and practicing under and in accordance with the Psychology Interjurisdictional Compact or the Psychology Practice Act;

(16) Advanced practice registered nurses practicing in their clinical specialty areas when licensed under the Advanced Practice Registered Nurse Practice Act and practicing under and in accordance with their respective practice acts;

(17) Surgical first assistants practicing in accordance with the Surgical First Assistant Practice Act;

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

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

(20) Physicians who are licensed in good standing to practice medicine under the laws of another state or jurisdiction who accompany an athletic team or organization into this state for an event from the state or jurisdiction of licensure. This exemption is limited to treatment provided to such athletic team or organization while present in Nebraska; and

~~(21)~~ ~~(20)~~ Other trained persons employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act or clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act to withdraw human blood for scientific or medical purposes.

Any person who has held or applied for a license to practice medicine and surgery in this state, and such license or application has been denied or such license has been refused renewal or disciplined by order of limitation, suspension, or revocation, shall be ineligible for the exceptions described in subdivisions (5) through (8) of this section until such license or application is granted or such license is renewed or reinstated. Every act or practice falling within the practice of medicine and surgery as defined in section 38-2024 and not specially excepted in this section shall constitute the practice of medicine and surgery and may be performed in this state only by those licensed by law to practice medicine in Nebraska.

Sec. 31. Section 38-2026, Reissue Revised Statutes of Nebraska, is amended to read:

38-2026 Except as otherwise provided in sections 38-2026.01 and 38-2027,

each applicant for a license to practice medicine and surgery shall:

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

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

(3) Pass a licensing examination approved by the board covering appropriate medical subjects; and

(4) Present proof satisfactory to the department that he or she, within the three years immediately preceding the application for licensure, (a) has been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year, (b) has had at least one year of graduate medical education as described in subdivision (2) of this section, (c) has completed continuing education in medicine and surgery approved by the board, (d) has completed a refresher course in medicine and surgery approved by the board, or (e) has completed the special purposes examination approved by the board.

Sec. 32. Section 38-2104, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

(c) The Council on Rehabilitation Education;

(d) The Council on Social Work Education; or

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

Sec. 33. Section 38-2112, Reissue Revised Statutes of Nebraska, is amended to read:

38-2112 Consultation means a professional collaborative relationship between a licensed mental health practitioner and a consultant who is a psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact, a qualified physician, or a licensed independent mental health practitioner in which (1) the consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant and (2) the consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.

Sec. 34. Section 38-2115, Reissue Revised Statutes of Nebraska, is amended to read:

38-2115 (1) Mental health practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Mental health practice does not include:

(a) The practice of psychology or medicine;

(b) Prescribing drugs or electroconvulsive therapy;

(c) Treating physical disease, injury, or deformity;

(d) Diagnosing major mental illness or disorder except in consultation with a qualified physician, a psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact, or a licensed independent mental health practitioner;

(e) Measuring personality or intelligence for the purpose of diagnosis or treatment planning;

(f) Using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician, a

licensed psychologist, or a licensed independent mental health practitioner; or
(g) Using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed psychologist.

(3) Mental health practice includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

(4) Nothing in sections 38-2114, 38-2118, and 38-2119 shall be deemed to constitute authorization to engage in activities beyond those described in this section. Persons certified under the Mental Health Practice Act but not licensed under section 38-2122 shall not engage in mental health practice.

Sec. 35. Section 38-2117, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 36. Section 38-2122, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

Sec. 37. Section 38-2123, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

(2) The rules and regulations approved by the board and adopted and promulgated by the department shall not require that the applicant have a supervisor in place at the time of application for a provisional mental health practitioner license.

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

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

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

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

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

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

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

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

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

(iii) Has seven thousand hours of experience obtained in a period of not less than ten years and supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category.

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

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

Sec. 39. Section 38-2125, Revised Statutes Supplement, 2017, is amended to read:

38-2125 The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to an individual who (1) meets the licensure requirements of the Mental Health Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board, or (2) has been in active practice in the appropriate discipline for at least five years following initial licensure or certification in another jurisdiction and has passed the Nebraska jurisprudence examination. An applicant for a license who is a military spouse may apply for a temporary license as provided in section 38-129.01.

Sec. 40. Section 38-2518, Reissue Revised Statutes of Nebraska, is amended to read:

38-2518 (1) An applicant applying for a license as an occupational therapist shall show to the satisfaction of the department that he or she:

(a) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association;

(b) Has successfully completed a period of supervised fieldwork experience at an educational institution approved by the department and where the applicant's academic work was completed or which is part of a training program approved by such educational institution. A minimum of six months of supervised fieldwork experience shall be required for an occupational therapist; and

(c) Has passed an examination as provided in section 38-2520.

(2) In the case of an applicant who has been trained as an occupational therapist in a foreign country, the applicant shall:

(a) Present documentation of completion of an educational program in occupational therapy that is substantially equivalent to an approved program accredited by the Accreditation Council for Occupational Therapy Education or by an equivalent accrediting agency as determined by the board;

(b) Present proof of proficiency in the English language; and

(c) Have passed an examination as provided in section 38-2520.

~~(3) (2)~~ Residency in this state shall not be a requirement of licensure. A corporation, partnership, limited liability company, or association shall not be licensed as an occupational therapist pursuant to the Occupational Therapy Practice Act.

Sec. 41. Section 38-2519, Reissue Revised Statutes of Nebraska, is amended to read:

38-2519 (1) An applicant applying for a license as an occupational therapy assistant shall show to the satisfaction of the department that he or she:

(a) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association;

(b) Has successfully completed a period of supervised fieldwork experience at an educational institution approved by the department and where the applicant's academic work was completed or which is part of a training program

approved by such educational institution. A minimum of two months of supervised fieldwork experience shall be required for an occupational therapy assistant; and

(c) Has passed an examination as provided in section 38-2520.

(2) In the case of an applicant who has been trained as an occupational therapy assistant in a foreign country, the applicant shall:

(a) Present documentation of completion of an educational program for occupational therapy assistants that is substantially equivalent to an approved program accredited by the Accreditation Council for Occupational Therapy Education or by an equivalent accrediting agency as determined by the board;

(b) Present proof of proficiency in the English language; and

(c) Have passed an examination as provided in section 38-2520.

(3) (2) Residency in this state shall not be a requirement of licensure as an occupational therapy assistant. A corporation, partnership, limited liability company, or association shall not be licensed as an occupational therapy assistant pursuant to the Occupational Therapy Practice Act.

Sec. 42. Section 38-2521, Reissue Revised Statutes of Nebraska, is amended to read:

38-2521 The department, with the recommendation of the board, may waive continuing competency requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements as provided in section 38-146. In addition to circumstances determined by the department to be beyond the licensee's control pursuant to such section, such circumstances shall include situations in which:

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

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

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

Sec. 43. Section 38-2826.01, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 44. Section 38-3101, Reissue Revised Statutes of Nebraska, is amended to read:

38-3101 Sections 38-3101 to 38-3132 and section 46 of this act shall be known and may be cited as the Psychology Practice Act.

Sec. 45. Section 38-3111, Reissue Revised Statutes of Nebraska, is amended to read:

38-3111 (1) Unless otherwise expressly stated, references to licensed psychologists in the Nebraska Mental Health Commitment Act, in the Psychology Practice Act, in the Sex Offender Commitment Act, and in section 44-513 means only psychologists licensed to practice psychology in this state under section 38-3114 or under similar provisions of the Psychology Interjurisdictional Compact and does not mean persons holding a special license under section 38-3116 or holding a provisional license under the Psychology Practice Act.

(2) Any reference to a person certified to practice clinical psychology under the law in effect immediately prior to September 1, 1994, and any equivalent reference under the law of another jurisdiction, including, but not limited to, certified clinical psychologist, health care practitioner in psychology, or certified health care provider, shall be construed to refer to a psychologist licensed under the Uniform Credentialing Act except for persons licensed under section 38-3116 or holding a provisional license under the Psychology Practice Act.

Sec. 46. The chairperson of the board or his or her designee shall serve as the administrator of the Psychology Interjurisdictional Compact for the State of Nebraska. The administrator shall give notice of withdrawal to the executive heads of all other party states within thirty days after the effective date of any statute repealing the compact enacted by the Legislature pursuant to Article XIII of the compact.

Sec. 47. Section 44-772, Reissue Revised Statutes of Nebraska, is amended to read:

44-772 Substance abuse treatment center shall mean an institution licensed as a substance abuse treatment center by the Department of Health and Human Services ~~and defined in section 71-430~~, which provides a program for the inpatient or outpatient treatment of alcoholism pursuant to a written treatment plan approved and monitored by a physician and which is affiliated with a hospital under a contractual agreement with an established system for patient referral.

Sec. 48. Section 44-792, Reissue Revised Statutes of Nebraska, is amended to read:

44-792 For purposes of sections 44-791 to 44-795:

(1) Health insurance plan means (a) any group sickness and accident insurance policy, group health maintenance organization contract, or group

subscriber contract delivered, issued for delivery, or renewed in this state and (b) any self-funded employee benefit plan to the extent not preempted by federal law. Health insurance plan includes any group policy, group contract, or group plan offered or administered by the state or its political subdivisions. Health insurance plan does not include group policies providing coverage for a specified disease, accident-only coverage, hospital indemnity coverage, disability income coverage, medicare supplement coverage, long-term care coverage, or other limited-benefit coverage. Health insurance plan does not include any policy, contract, or plan covering an employer group that covers fewer than fifteen employees;

(2) Mental health condition means any condition or disorder involving mental illness that falls under any of the diagnostic categories listed in the Mental Disorders Section of the International Classification of Disease;

(3) Mental health professional means (a) a practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act, (b) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact, or (c) a practicing mental health professional licensed or certified in this state as provided in the Mental Health Practice Act;

(4) Rate, term, or condition means lifetime limits, annual payment limits, and inpatient or outpatient service limits. Rate, term, or condition does not include any deductibles, copayments, or coinsurance; and

(5)(a) Serious mental illness means, prior to January 1, 2002, (i) schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder, (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive compulsive disorder; and

(b) Serious mental illness means, on and after January 1, 2002, any mental health condition that current medical science affirms is caused by a biological disorder of the brain and that substantially limits the life activities of the person with the serious mental illness. Serious mental illness includes, but is not limited to (i) schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder, (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive compulsive disorder.

Sec. 49. Section 69-2429, Reissue Revised Statutes of Nebraska, is amended to read:

69-2429 For purposes of the Concealed Handgun Permit Act:

(1) Concealed handgun means the handgun is totally hidden from view. If any part of the handgun is capable of being seen, it is not a concealed handgun;

(2) Emergency services personnel means a volunteer or paid firefighter or rescue squad member or a person licensed to provide emergency medical services pursuant to the Emergency Medical Services Practice Act or authorized to provide emergency medical services pursuant to the EMS Personnel Licensure Interstate Compact;

(3) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;

(4) Peace officer means any town marshal, chief of police or local police officer, sheriff or deputy sheriff, the Superintendent of Law Enforcement and Public Safety, any officer of the Nebraska State Patrol, any member of the National Guard on active service by direction of the Governor during periods of emergency or civil disorder, any Game and Parks Commission conservation officer, and all other persons with similar authority to make arrests;

(5) Permitholder means an individual holding a current and valid permit to carry a concealed handgun issued pursuant to the Concealed Handgun Permit Act; and

(6) Proof of training means an original document or certified copy of a document, supplied by an applicant, that certifies that he or she either:

(a) Within the previous three years, has successfully completed a handgun training and safety course approved by the Nebraska State Patrol pursuant to section 69-2432; or

(b) Is a member of the active or reserve armed forces of the United States or a member of the National Guard and has had handgun training within the previous three years which meets the minimum safety and training requirements of section 69-2432.

Sec. 50. Section 71-401, Revised Statutes Supplement, 2017, is amended to read:

71-401 Sections 71-401 to 71-475 and sections 54 and 56 of this act shall be known and may be cited as the Health Care Facility Licensure Act.

Sec. 51. Section 71-403, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-403 For purposes of the Health Care Facility Licensure Act, unless the context otherwise requires, the definitions found in sections 71-404 to 71-431 and section 54 of this act shall apply.

Sec. 52. Section 71-413, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-413 Health care facility means an ambulatory surgical center, an assisted-living facility, a center or group home for the developmentally disabled, a critical access hospital, a general acute hospital, a health clinic, a hospital, an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, a

pharmacy, a psychiatric or mental hospital, a public health clinic, a rehabilitation hospital, or a skilled nursing facility, or a substance abuse treatment center.

Sec. 53. Section 71-423, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 54. Mental illness means a wide range of mental health disorders that affect mood, thinking, and behavior and can result in significantly impaired judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for health, safety, or recovery of the individual or for the safety of others.

Sec. 55. Section 71-430, Reissue Revised Statutes of Nebraska, is amended to read:

71-430 Substance use disorder means a medical illness caused by repeat misuse of a substance or substances, characterized by clinically significant impairments in health, social function, and impaired control over substance use and diagnosed through assessing cognitive, behavioral, and psychological symptoms. Substance use disorders range from mild to severe and from temporary to chronic.

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

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

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

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

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

Sec. 56. A health care facility applying for a license as a mental health substance use treatment center shall designate whether the license is to be issued to provide services for mental health disorders, for substance use disorders, or for both mental health and substance use disorders. A license issued to provide services for mental health disorders permits the facility to treat persons whose primary need is treatment for mental health disorders. A license issued to provide services for substance use disorders permits the facility to treat persons whose primary need is treatment for substance use disorders. A license issued to provide services for both mental health and substance use disorders permits the facility to treat persons with mental health disorders, substance use disorders, or both mental health disorders and substance use disorders.

Sec. 57. Section 71-474, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-474 A person may not advertise to the public, by way of any medium, that a hospital is a comprehensive stroke center, a designated thrombectomy-capable stroke center, a primary stroke center, or an acute stroke-ready hospital unless the hospital is listed as such by the Department of Health and Human Services under the Stroke System of Care Act.

Sec. 58. Section 71-507, Reissue Revised Statutes of Nebraska, is amended to read:

71-507 For purposes of sections 71-507 to 71-513:

(1) Alternate facility means a facility other than a health care facility that receives a patient transported to the facility by an emergency services provider;

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

(3) Designated physician means the physician representing the emergency services provider as identified by name, address, and telephone number on the significant exposure report form. The designated physician shall serve as the contact for notification in the event an emergency services provider believes he or she has had significant exposure to an infectious disease or condition. Each emergency services provider shall designate a physician as provided in subsection (2) of section 71-509;

(4) Emergency services provider means an out-of-hospital emergency care provider licensed pursuant to the Emergency Medical Services Practice Act or authorized pursuant to the EMS Personnel Licensure Interstate Compact, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a funeral director, a paid or volunteer firefighter, a school district employee, and a person rendering emergency care gratuitously as described in section 25-21,186;

(5) Funeral director means a person licensed under section 38-1414 or an employee of such a person with responsibility for transport or handling of a

deceased human;

(6) Funeral establishment means a business licensed under section 38-1419;

(7) Health care facility has the meaning found in sections 71-419, 71-420, 71-424, and 71-429 or any facility that receives patients of emergencies who are transported to the facility by emergency services providers;

(8) Infectious disease or condition means hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, diphtheria, plague, hemorrhagic fevers, rabies, and such other diseases as the department may by rule and regulation specify;

(9) Patient means an individual who is sick, injured, wounded, deceased, or otherwise helpless or incapacitated;

(10) Patient's attending physician means the physician having the primary responsibility for the patient as indicated on the records of a health care facility;

(11) Provider agency means any law enforcement agency, fire department, emergency medical service, funeral establishment, or other entity which employs or directs emergency services providers or public safety officials;

(12) Public safety official means a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a paid or volunteer firefighter, a school district employee, and any civilian law enforcement employee or volunteer performing his or her duties, other than those as an emergency services provider;

(13) Responsible person means an individual who has been designated by an alternate facility to carry out the facility's responsibilities under sections 71-507 to 71-513. A responsible person may be designated on a case-by-case basis;

(14) Significant exposure means a situation in which the body fluids, including blood, saliva, urine, respiratory secretions, or feces, of a patient or individual have entered the body of an emergency services provider or public safety official through a body opening including the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or through any other situation when the patient's or individual's body fluids may have entered the emergency services provider's or public safety official's body or when an airborne pathogen may have been transmitted from the patient or individual to the emergency services provider or public safety official; and

(15) Significant exposure report form means the form used by the emergency services provider to document information necessary for notification of significant exposure to an infectious disease or condition.

Sec. 59. Section 71-906, Reissue Revised Statutes of Nebraska, is amended to read:

71-906 Mental health professional means a person licensed to practice medicine and surgery or psychology in this state under the Psychology Interjurisdictional Compact or the Uniform Credentialing Act or an advanced practice registered nurse licensed under the Advanced Practice Registered Nurse Practice Act who has proof of current certification in a psychiatric or mental health specialty.

Sec. 60. Section 71-1908, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-1908 (1) Sections 71-1908 to 71-1923 and section 62 of this act shall be known and may be cited as the Child Care Licensing Act.

(2) The Legislature finds that there is a present and growing need for quality child care programs and facilities. There is a need to establish and maintain licensure of persons providing such programs to ensure that such persons are competent and are using safe and adequate facilities. The Legislature further finds and declares that the development and supervision of programs are a matter of statewide concern and should be dealt with uniformly on the state and local levels. There is a need for cooperation among the various state and local agencies which impose standards on licensees, and there should be one agency which coordinates the enforcement of such standards and informs the Legislature about cooperation among the various agencies.

Sec. 61. Section 71-1913, Reissue Revised Statutes of Nebraska, is amended to read:

71-1913 (1) The department may request the State Fire Marshal to inspect any program for fire safety pursuant to section 81-502. The State Fire Marshal shall immediately notify the department whenever he or she delegates authority for such inspections under such section.

(2) The department may investigate all facilities and programs of licensed providers of child care programs as defined in section 71-1910 or applicants for licenses to provide such programs to determine if the place or places to be covered by such licenses meet standards of sanitation and physical well-being set by the department for the care and protection of the child or children who may be placed in such facilities and programs. The department may delegate this authority to qualified local environmental health personnel.

(3) This section does not apply to school-age child care programs which are licensed pursuant to section 62 of this act.

Sec. 62. (1) For purposes of licensing a school-age child care program, a school-age child care program which operates in an accredited or approved school under the rules and regulations of the State Department of Education shall be deemed to meet the standards of the State Department of Education for the care and protection of children. The Department of Health and Human Services shall provide for inspections of school-age child care programs to determine compliance with this section. If a school-age child care program

accepts reimbursement from a state or federal program, the Department of Health and Human Services shall also determine whether the school-age child care program complies with the requirements of the state or federal program for such reimbursement.

(2) The Department of Health and Human Services may, in consultation with the State Department of Education, adopt and promulgate rules and regulations as necessary to implement this section.

Sec. 63. Section 71-2411, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

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

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

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

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

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

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

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

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

Sec. 64. Section 71-2445, Revised Statutes Supplement, 2017, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(11) Practice of pharmacy has the definition found in section 38-2837;

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

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

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

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

Sec. 65. Section 71-2454, Revised Statutes Supplement, 2017, is amended to read:

71-2454 (1) An entity described in section 71-2455 shall establish a system of prescription drug monitoring for the purposes of (a) preventing the misuse of controlled substances that are prescribed and (b) allowing prescribers and dispensers to monitor the care and treatment of patients for whom such a prescription drug is prescribed to ensure that such prescription drugs are used for medically appropriate purposes and that the State of Nebraska remains on the cutting edge of medical information technology.

(2) Such system of prescription drug monitoring shall be implemented as follows: Except as provided in subsection (4) of this section, beginning January 1, 2017, all dispensed prescriptions of controlled substances shall be reported; and beginning January 1, 2018, all prescription information shall be reported to the prescription drug monitoring system. The prescription drug monitoring system shall include, but not be limited to, provisions that:

(a) Prohibit any patient from opting out of the prescription drug monitoring system;

(b) Require all prescriptions dispensed in this state or to an address in this state to be entered into the system by the dispenser or his or her designee daily after such prescription is dispensed, including those for patients paying cash for such prescription drug or otherwise not relying on a third-party payor for payment for the prescription drug;

(c) Allow all prescribers or dispensers of prescription drugs to access the system at no cost to such prescriber or dispenser;

(d) Ensure that such system includes information relating to all payors, including, but not limited to, the medical assistance program established pursuant to the Medical Assistance Act; and

(e) Make the prescription information available to the statewide health information exchange described in section 71-2455 for access by its participants if such access is in compliance with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, except that if a patient opts out of the statewide health information exchange, the prescription information regarding that patient shall not be accessible by the participants in the statewide health information exchange.

Dispensers may begin on February 25, 2016, to report dispensing of prescriptions to the entity described in section 71-2455 which is responsible for establishing the system of prescription drug monitoring.

(3) Except as provided in subsection (4) of this section, prescription information that shall be submitted electronically to the prescription drug monitoring system shall be determined by the entity described in section 71-2455 and shall include, but not be limited to:

(a) The patient's name, address, and date of birth;

(b) The name and address of the pharmacy dispensing the prescription;

(c) The date the prescription is issued;

(d) The date the prescription is filled;

(e) The name of the drug dispensed or the National Drug Code number as published by the federal Food and Drug Administration of the drug dispensed;

(f) The strength of the drug prescribed;

(g) The quantity of the drug prescribed and the number of days' supply; and

(h) The prescriber's name and National Provider Identifier number or Drug Enforcement Administration number when reporting a controlled substance.

(4) Beginning July 1, 2018, a veterinarian licensed under the Veterinary Medicine and Surgery Practice Act shall be required to report a dispensed prescription of controlled substances listed on Schedule II, Schedule III, or Schedule IV pursuant to section 28-405. Each such veterinarian shall indicate that the prescription is an animal prescription and shall include the following information in such report:

(a) The first and last name and address, including city, state, and zip code, of the individual to whom the drug is dispensed in accordance with a valid veterinarian-client-patient relationship;

(b) Reporting status;

(c) The first and last name of the prescribing veterinarian and his or her federal Drug Enforcement Administration number;

(d) The name of the drug dispensed and the prescription number;

(e) The date the prescription is written and the date the prescription is filled;

(f) The number of refills authorized, if any; and

(g) The quantity of the drug dispensed and the number of days' supply.

(5)(a) All prescription drug information submitted pursuant to this section, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system are confidential, are privileged, are not public records, and may be withheld pursuant to section 84-712.05.

(b) No patient-identifying data as defined in section 81-664, including the data collected under subsection (3) of this section, shall be disclosed, made public, or released to any public or private person or entity except to the statewide health information exchange described in section 71-2455 and its participants and to prescribers and dispensers as provided in subsection (2) of this section.

(c) All other data is for the confidential use of the department and the statewide health information exchange described in section 71-2455 and its participants. The department may release such information as Class I, Class II, or Class IV data in accordance with section 81-667 to the private or public persons or entities that the department determines may view such records as provided in sections 81-663 to 81-675.

(6) Before accessing the prescription drug monitoring system, any user shall undergo training on the purpose of the system, access to and proper usage of the system, and the law relating to the system, including confidentiality and security of the prescription drug monitoring system. Such training shall be administered by the statewide health information exchange described in section 71-2455 which shall have access to the prescription drug monitoring system for training and administrative purposes. Users who have been trained prior to May 10, 2017, are deemed to be in compliance with the training requirement of this subsection.

(7) For purposes of this section:

(a) Designee means any licensed or registered health care professional credentialed under the Uniform Credentialing Act designated by a prescriber or dispenser to act as an agent of the prescriber or dispenser for purposes of submitting or accessing data in the prescription drug monitoring system and who is supervised by such prescriber or dispenser;

(b) Dispensed prescription means a prescription drug delivered to the ultimate user by or pursuant to the lawful order of a prescriber but does not include (i) the delivery of such prescription drug for immediate use for purposes of inpatient hospital care or emergency department care, (ii) the administration of a prescription drug by an authorized person upon the lawful order of a prescriber, (iii) a wholesale distributor of a prescription drug monitored by the prescription drug monitoring system, or (iv) the dispensing to a nonhuman patient of a prescription drug which is not a controlled substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V of section 28-405;

~~(c) (b) Dispenser means a person authorized in the jurisdiction in which he or she is practicing to deliver a prescription to the ultimate user by or pursuant to the lawful order of a prescriber but does not include (i) the delivery of such prescription drug for immediate use for purposes of inpatient hospital care or emergency department care, (ii) the administration of a prescription drug by an authorized person upon the lawful order of a prescriber, (iii) a wholesale distributor of a prescription drug monitored by the prescription drug monitoring system, or (iv) through December 31, 2017, a veterinarian licensed under the Veterinary Medicine and Surgery Practice Act when dispensing prescriptions for animals in the usual course of providing professional services;~~

~~(d) (e) Participant means an individual or entity that has entered into a participation agreement with the statewide health information exchange described in section 71-2455 which requires the individual or entity to comply with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder; and~~

~~(e) (d) Prescriber means a health care professional authorized to prescribe in the profession which he or she practices.~~

Sec. 66. Section 71-4204, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-4204 The department shall designate hospitals as comprehensive stroke centers, thrombectomy-capable stroke centers, primary stroke centers, or and acute stroke-ready hospitals based on certification from the American Heart Association, the Joint Commission on Accreditation of Healthcare Organizations, or another nationally recognized, guidelines-based organization that provides certification for stroke care, as such certification existed on the effective date of this act July 21, 2016. The department shall compile and maintain a list of such hospitals and post the list on the department's web site. Before June 1 of each year, the department shall send the list to the physician medical director of each emergency medical service licensed pursuant to the Emergency Medical Services Practice Act.

Sec. 67. Section 71-4205, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-4205 A hospital that is designated as a comprehensive stroke center, a thrombectomy-capable stroke center, or a primary stroke center may enter into a coordinating stroke care agreement with an acute stroke-ready hospital to provide appropriate access to care for acute stroke patients. The agreement shall be in writing and shall include, at a minimum:

(1) A transfer agreement for the transport and acceptance of any stroke patient seen by the acute stroke-ready hospital for stroke treatment therapies which the acute stroke-ready hospital is not capable of providing; and

(2) Communication criteria and protocol with the acute stroke-ready hospital.

Sec. 68. Section 71-4209, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-4209 (1) The department shall establish a stroke system of care task force to address matters of triage, treatment, and transport of possible acute stroke patients. The task force shall include representation from the department, including a program created by the department to address chronic disease prevention and control issues including cardiovascular health, the Emergency Medical Services Program created by the department, and the Office of Rural Health, the American Stroke Association, the Nebraska State Stroke Association, hospitals designated as comprehensive stroke centers under the Stroke System of Care Act, hospitals designated as primary stroke centers under the act, hospitals designated as thrombectomy-capable stroke centers under the act, rural hospitals, physicians, and emergency medical services licensed pursuant to the Emergency Medical Services Practice Act.

(2) The task force shall provide advice and recommendations to the department regarding the implementation of the Stroke System of Care Act. The task force shall focus on serving both rural and urban areas. The task force shall provide advice regarding protocols for the assessment, stabilization, and appropriate routing of stroke patients by emergency medical services and for coordination and communication between hospitals, comprehensive stroke centers, primary stroke centers, and other support services necessary to assure all residents of Nebraska have access to effective and efficient stroke care.

(3) The task force shall recommend eligible essential health care services for acute stroke care provided through telehealth as defined in section 71-8503.

Sec. 69. The State of Nebraska adopts the EMS Personnel Licensure Interstate Compact in the form substantially as follows:

ARTICLE 1. PURPOSE

In order to protect the public through verification of competency and ensure accountability for patient-care-related activities, all states license emergency medical services personnel, such as emergency medical technicians, advanced emergency medical technicians, and paramedics. The EMS Personnel Licensure Interstate Compact is intended to facilitate the day-to-day movement of emergency medical services personnel across state boundaries in the performance of their emergency medical services duties as assigned by an appropriate authority and authorize state emergency medical services offices to afford immediate legal recognition to emergency medical services personnel licensed in a member state. This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of emergency medical services personnel and that such state regulation shared among the member states will best protect public health and safety. This compact is designed to achieve the following purposes and objectives:

1. Increase public access to emergency medical services personnel;
2. Enhance the states' ability to protect the public's health and safety, especially patient safety;
3. Encourage the cooperation of member states in the areas of emergency medical services personnel licensure and regulation;
4. Support licensing of military members who are separating from an active duty tour and their spouses;
5. Facilitate the exchange of information between member states regarding emergency medical services personnel licensure, adverse action, and significant investigatory information;
6. Promote compliance with the laws governing emergency medical services personnel practice in each member state; and
7. Invest all member states with the authority to hold emergency medical services personnel accountable through the mutual recognition of member state licenses.

ARTICLE 2. DEFINITIONS

In the EMS Personnel Licensure Interstate Compact:

A. Advanced emergency medical technician (AEMT) means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

B. Adverse action means any administrative, civil, equitable, or criminal action permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring, or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions, and state court judgments enforcing adverse actions by the state EMS authority.

C. Alternative program means a voluntary, nondisciplinary substance abuse recovery program approved by a state EMS authority.

D. Certification means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

E. Commission means the national administrative body of which all states

that have enacted the compact are members.

F. Emergency medical services (EMS) means services provided by emergency medical services personnel.

G. Emergency medical services (EMS) personnel includes emergency medical technicians, advanced emergency medical technicians, and paramedics.

H. Emergency medical technician (EMT) means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

I. Home state means a member state where an individual is licensed to practice emergency medical services.

J. License means the authorization by a state for an individual to practice as an EMT, an AEMT, or a paramedic.

K. Medical director means a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

L. Member state means a state that has enacted the EMS Personnel Licensure Interstate Compact.

M. Privilege to practice means an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

N. Paramedic means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

O. Remote state means a member state in which an individual is not licensed.

P. Restricted means the outcome of an adverse action that limits a license or the privilege to practice.

Q. Rule means a written statement by the commission promulgated pursuant to Article 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of this compact; or is an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

R. Scope of practice means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

S. Significant investigatory information means:

1. Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

2. Investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

T. State means any state, commonwealth, district, or territory of the United States.

U. State EMS authority means the board, office, or other agency with the legislative mandate to license EMS personnel.

ARTICLE 3. HOME STATE LICENSURE

A. Any member state in which an individual holds a current license shall be deemed a home state for purposes of the EMS Personnel Licensure Interstate Compact.

B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

C. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

1. Currently requires the use of the National Registry of Emergency Medical Technicians examination as a condition of issuing initial licenses at the EMT and paramedic levels;

2. Has a mechanism in place for receiving and investigating complaints about individuals;

3. Notifies the commission, in compliance with the terms of this compact, of any adverse action or significant investigatory information regarding an individual;

4. No later than five years after activation of this compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. 731.202 and submit documentation of such as promulgated in the rules of the commission; and

5. Complies with the rules of the commission.

ARTICLE 4. COMPACT PRIVILEGE TO PRACTICE

A. Member states shall recognize the privilege to practice of an individual license in another member state that is in conformance with Article 3 of the EMS Personnel Licensure Interstate Compact.

B. To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

1. Be at least eighteen years of age;

2. Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

3. Practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

D. Except as provided in section C of this Article, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action, it shall promptly notify the home state and the commission.

E. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked, the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

ARTICLE 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the commission, and under the following circumstances:

1. The individual originates a patient transport in a home state and transports the patient to a remote state;

2. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

3. The individual enters a remote state to provide patient care or transport within that remote state;

4. The individual enters a remote state to pick up a patient and provide care and transport to a third member state;

5. Other conditions as determined by rules promulgated by the commission.

ARTICLE 6. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact, all relevant terms and provisions of the compact shall apply and to the extent any terms or provisions of the EMS Personnel Licensure Interstate Compact conflict with the Emergency Management Assistance Compact, the terms of the Emergency Management Assistance Compact shall prevail with respect to any individual practicing in the remote state in response to such declaration.

ARTICLE 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY, AND THEIR SPOUSES

A. Member states shall consider a veteran, an active military service member, and a member of the National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted National Registry of Emergency Medical Technicians certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour and their spouses.

C. All individuals functioning with a privilege to practice under this Article remain subject to the adverse actions provisions of Article 8 of the EMS Personnel Licensure Interstate Compact.

ARTICLE 8. ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

1. All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from the state EMS authority of both the home state and the remote state.

2. An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from the state EMS authority of both the home state and the remote state.

C. A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the commission in accordance with the rules of the commission.

D. A remote state may take adverse action on an individual's privilege to practice within that state.

E. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

F. A home state's state EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the

home state's law shall control in determining the appropriate adverse action.

G. Nothing in the EMS Personnel Licensure Interstate Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

ARTICLE 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S STATE EMS AUTHORITY

A member state's state EMS authority, in addition to any other powers granted under state law, is authorized under the EMS Personnel Licensure Interstate Compact to:

1. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's state EMS authority for the attendance and testimony of witnesses, or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence is located; and

2. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

ARTICLE 10. ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE

A. The member states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

1. The commission is a body politic and an instrumentality of the member states.

2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in the EMS Personnel Licensure Interstate Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have and be limited to one delegate. The responsible official of the state EMS authority or his or her designee shall be the delegate to this compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the member state will determine which entity will be responsible for assigning the delegate.

2. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article 12 of this compact.

5. The commission may convene in a closed, nonpublic meeting if the commission must discuss:

a. Noncompliance of a member state with its obligations under this compact;

b. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigatory records compiled for law enforcement purposes;

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this

Article, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for the actions, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

C. The commission shall, by a majority vote of the delegates, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including, but not limited to:

1. Establishing the fiscal year of the commission;
2. Providing reasonable standards and procedures:
 - a. For the establishment and meetings of other committees; and
 - b. Governing any general or specific delegation of any authority or function of the commission;
3. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;
4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;
5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the commission;
6. Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;
7. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations;
8. The commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any.
9. The commission shall maintain its financial records in accordance with the bylaws.
10. The commission shall meet and take such actions as are consistent with this compact and the bylaws.

D. The commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;
2. To bring and prosecute legal proceedings or actions in the name of the commission. The standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;
3. To purchase and maintain insurance and bonds;
4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same. At all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;
7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed. At all times the commission shall strive to avoid any appearance of impropriety;
8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
9. To establish a budget and make expenditures;
10. To borrow money;
11. To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;
12. To provide and receive information from, and to cooperate with, law enforcement agencies;
13. To adopt and use an official seal; and
14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of

EMS personnel licensure and practice.

E. Financing of the Commission

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

4. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

F. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the commission shall have no greater liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, than a state employee would have under the same or similar circumstances. Nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities. Nothing in this paragraph shall be construed to prohibit that person from retaining his or her own counsel. The commission shall provide such defense if the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE 11. COORDINATED DATA BASE

A. The commission shall provide for the development and maintenance of a coordinated data base and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

B. A member state shall submit a uniform data set to the coordinated data base on all individuals to whom the EMS Personnel Licensure Interstate Compact is applicable as required by the rules of the commission, including:

1. Identifying information;

2. Licensure data;

3. Significant investigatory information;

4. Adverse actions against an individual's license;

5. An indicator that an individual's privilege to practice is restricted, suspended, or revoked;

6. Nonconfidential information related to alternative program participation;

7. Any denial of application for licensure, and the reason for such denial; and

8. Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

C. The coordinated data base administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

D. Member states contributing information to the coordinated data base may designate information that may not be shared with the public without the express permission of the contributing state.

E. Any information submitted to the coordinated data base that is

subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated data base.

ARTICLE 12. RULEMAKING

A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the EMS Personnel Licensure Interstate Compact, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

D. Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. On the web site of the commission; and
2. On the web site of each member state's state EMS authority or the publication in which each state would otherwise publish proposed rules.

E. The notice of proposed rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five persons;
2. A governmental subdivision or agency; or
3. An association having at least twenty-five members.

H. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this Article shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this Article.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

J. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing. The usual rulemaking procedures provided in this compact and in this Article shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For purposes of this paragraph, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of commission or member state funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect public health and safety.

M. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the web site of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on

grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

ARTICLE 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce the EMS Personnel Licensure Interstate Compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent. This compact and the rules promulgated under this compact shall have standing as statutory law.

2. All courts shall take judicial notice of this compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

3. The commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from this compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature or the speaker if no such leaders exist, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from this compact, unless agreed upon in writing between the commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a member state, the commission shall attempt to resolve disputes related to this compact that arise among member states and between member and nonmember states.

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies in this Article shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE 14. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The EMS Personnel Licensure Interstate Compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of this compact.

B. Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date

on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

C. Any member state may withdraw from this compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's state EMS authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

D. Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with this compact.

E. This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

ARTICLE 15. CONSTRUCTION AND SEVERABILITY

The EMS Personnel Licensure Interstate Compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

Sec. 70. The State of Nebraska adopts the Psychology Interjurisdictional Compact substantially as follows:

ARTICLE I

PURPOSE

States license psychologists in order to protect the public through verification of education, training, and experience and ensure accountability for professional practice.

The Psychology Interjurisdictional Compact is intended to regulate the day-to-day practice of telepsychology, the provision of psychological services using telecommunication technologies, by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority.

The Compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for thirty days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority.

The Compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the Compact, to psychologists licensed in another state.

The Compact recognizes that states have a vested interest in protecting the public's health and safety through licensing and regulation of psychologists and that such state regulation will best protect public health and safety.

The Compact does not apply when a psychologist is licensed in both the home and receiving states.

The Compact does not apply to permanent in-person, face-to-face practice; it does allow for authorization of temporary psychological practice.

Consistent with these principles, the Compact is designed to achieve the following purposes and objectives:

1. Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology;

2. Enhance the states' ability to protect the public's health and safety, especially client or patient safety;

3. Encourage the cooperation of compact states in the areas of psychology licensure and regulation;

4. Facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions, and disciplinary history;

5. Promote compliance with the laws governing psychological practice in each compact state; and

6. Invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

ARTICLE II

DEFINITIONS

A. Adverse action means any action taken by a state psychology regulatory authority which finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

B. Association of State and Provincial Psychology Boards means the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

C. Authority to practice interjurisdictional telepsychology means a licensed psychologist's authority to practice telepsychology, within the limits authorized under the Psychology Interjurisdictional Compact, in another compact state.

D. Bylaws means those bylaws established by the Commission pursuant to

Article X for its governance, or for directing and controlling its actions and conduct.

E. Client or patient means the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, and/or consulting services.

F. Commission means the Psychology Interjurisdictional Compact Commission which is the national administration of which all compact states are members.

G. Commissioner means the voting representative appointed by each state psychology regulatory authority pursuant to Article X.

H. Compact state means a state, the District of Columbia, or a United States territory that has enacted the Compact and which has not withdrawn pursuant to Article XIII, subsection C or been terminated pursuant to Article XII, subsection B.

I. Coordinated Licensure Information System means an integrated process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

J. Confidentiality means the principle that data or information is not made available or disclosed to unauthorized persons or processes.

K. Day means any part of a day in which psychological work is performed.

L. Distant state means the compact state where a psychologist is physically present, not through using telecommunications technologies, to provide temporary in-person, face-to-face psychological services.

M. E.Passport means a certificate issued by the Association of State and Provincial Psychology Boards that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

N. Executive board means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

O. Home state means a compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one compact state and is practicing under the authorization to practice interjurisdictional telepsychology, the home state is the compact state where the psychologist is physically present when the telepsychology services are delivered. If the psychologist is licensed in more than one compact state and is practicing under the temporary authorization to practice, the home state is any compact state where the psychologist is licensed.

P. Identity history summary means a summary of information retained by the Federal Bureau of Investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

Q. In-person, face-to-face means interactions in which the psychologist and the client or patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.

R. Interjurisdictional Practice Certificate means a certificate issued by the Association of State and Provincial Psychology Boards that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily and verification of one's qualifications for such practice.

S. License means authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

T. Noncompact state means any state which is not at the time a compact state.

U. Psychologist means an individual licensed for the independent practice of psychology.

V. Receiving state means a compact state where the client or patient is physically located when the telepsychology services are delivered.

W. Rule means a written statement by the Commission promulgated pursuant to Article XI that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a compact state, and includes the amendment, repeal, or suspension of an existing rule.

X. Significant investigatory information means:

1. Investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or

2. Investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified or had an opportunity to respond.

Y. State means a state, commonwealth, territory, or possession of the United States or the District of Columbia.

Z. State psychology regulatory authority means the board, office, or other agency with the legislative mandate to license and regulate the practice of psychology.

AA. Telepsychology means the provision of psychological services using telecommunication technologies.

BB. Temporary authorization to practice means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under the Compact, in another compact state.

CC. Temporary in-person, face-to-face practice means the practice of psychology in which a psychologist is physically present, not through using telecommunications technologies, in the distant state to provide for the practice of psychology for thirty days within a calendar year and based on notification to the distant state.

ARTICLE III

HOME STATE LICENSURE

A. The home state shall be a compact state where a psychologist is licensed to practice psychology.

B. A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of the Psychology Interjurisdictional Compact.

C. Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of the Psychology Interjurisdictional Compact.

D. Any compact state may require a psychologist to obtain and retain a license to be authorized to practice in a compact state under circumstances not authorized by temporary authorization to practice under the terms of the Compact.

E. A home state's license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

1. Currently requires the psychologist to hold an active E.Passport;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
3. Notifies the Commission, in compliance with the terms of the Compact, of any adverse action or significant investigatory information regarding a licensed individual;
4. Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than ten years after activation of the Compact; and
5. Complies with the bylaws and rules of the Commission.

F. A home state's license grants temporary authorization to practice to a psychologist in a distant state only if the compact state:

1. Currently requires the psychologist to hold an active Interjurisdictional Practice Certificate;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
3. Notifies the Commission, in compliance with the terms of the Compact, of any adverse action or significant investigatory information regarding a licensed individual;
4. Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than ten years after activation of the Compact; and
5. Complies with the bylaws and rules of the Commission.

ARTICLE IV

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

A. Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with Article III, to practice telepsychology in other compact states (receiving states) in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the Psychology Interjurisdictional Compact.

B. To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of the Compact, a psychologist licensed to practice in a compact state must:

1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:
 - a. Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees, or authorized by provincial statute or Royal Charter to grant doctoral degrees; or
 - b. A foreign college or university deemed to be equivalent to subdivision 1a of this subsection by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services or by a recognized foreign credential evaluation service; and
2. Hold a graduate degree in psychology that meets the following criteria:
 - a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;
 - b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;

c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

d. The program must consist of an integrated, organized sequence of study;

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degrees;

j. The program includes an acceptable residency as defined by the rules of the Commission.

3. Possess a current, full, and unrestricted license to practice psychology in a home state which is a compact state;

4. Have no history of adverse action that violates the rules of the Commission;

5. Have no criminal record history reported on an identity history summary that violates the rules of the Commission;

6. Possess a current, active E.Passport;

7. Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the rules of the Commission.

C. The home state maintains authority over the license of any psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology.

D. A psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology will be subject to the receiving state's authority and laws. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's applicable law to protect the health and safety of the receiving state's citizens. If a receiving state takes action, the state shall promptly notify the home state and the Commission.

E. If a psychologist's license in any home state, another compact state, or any authority to practice interjurisdictional telepsychology in any receiving state, is restricted, suspended, or otherwise limited, the E.Passport shall be revoked and therefor the psychologist shall not be eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

ARTICLE V

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

A. Compact states shall also recognize the right of a psychologist, licensed in a compact state in conformance with Article III, to practice temporarily in other compact states (distant states) in which the psychologist is not licensed, as provided in the Psychology Interjurisdictional Compact.

B. To exercise the temporary authorization to practice under the terms and provisions of the Compact, a psychologist licensed to practice in a compact state must:

1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

a. Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees, or authorized by provincial statute or Royal Charter to grant doctoral degrees; or

b. A foreign college or university deemed to be equivalent to subdivision 1a of this subsection by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services or by a recognized foreign credential evaluation service; and

2. Hold a graduate degree in psychology that meets the following criteria:

a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;

c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

d. The program must consist of an integrated, organized sequence of study;

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degrees;

j. The program includes an acceptable residency as defined by the rules of the Commission.

3. Possess a current, full, and unrestricted license to practice psychology in a home state which is a compact state;

4. No history of adverse action that violates the rules of the Commission;

5. No criminal record history that violates the rules of the Commission;

6. Possess a current, active Interjurisdictional Practice Certificate;

7. Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the rules of the Commission.

C. A psychologist practicing into a distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

D. A psychologist practicing into a distant state under the temporary authorization to practice will be subject to the distant state's authority and law. A distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, the state shall promptly notify the home state and the Commission.

E. If a psychologist's license in any home state, another compact state, or any temporary authorization to practice in any distant state, is restricted, suspended, or otherwise limited, the Interjurisdictional Practice Certificate shall be revoked and therefor the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

ARTICLE VI

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the Commission, and under the following circumstances:

1. The psychologist initiates a client or patient contact in a home state via telecommunications technologies with a client or patient in a receiving state;

2. Other conditions regarding telepsychology as determined by rules promulgated by the Commission.

ARTICLE VII

ADVERSE ACTIONS

A. A home state shall have the power to impose adverse action against a psychologist's license issued by the home state. A distant state shall the power to take adverse action on a psychologist's temporary authorization to practice within that distant state.

B. A receiving state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

C. If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the E.Passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the Interjurisdictional Practice Certificate is revoked.

1. All home state disciplinary orders which impose adverse action shall be reported to the Commission in accordance with the rules promulgated by the Commission. A compact state shall report adverse actions in accordance with the rules of the Commission.

2. In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the Commission.

3. Other actions may be imposed as determined by the rules promulgated by the Commission.

D. A home state's state psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a receiving state as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law shall control in determining any adverse action against a psychologist's license.

E. A distant state's state psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary authorization practice which occurred in that distant state as it would if such conduct had occurred by a licensee within the home state. In such cases, distant state's law shall control in determining any adverse action against a psychologist's temporary authorization to practice.

F. Nothing in the Psychology Interjurisdictional Compact shall override a

compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the compact state's law. Compact states must require psychologists who enter any alternative programs to not provide telepsychology services under the authority to practice interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

G. No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action pursuant to subsection C of this Article.

ARTICLE VIII

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S STATE PSYCHOLOGY REGULATORY AUTHORITY

In addition to any other powers granted under state law, a compact state's state psychology regulatory authority shall have the authority under the Psychology Interjurisdictional Compact to:

1. Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact state's state psychology regulatory authority for the attendance and testimony of witnesses, or the production of evidence from another compact state shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage fees, and other fees required by the service statutes of the state where the witnesses or evidence are located; and

2. Issue cease and desist orders, injunctive relief orders, or both to revoke a psychologist's authority to practice interjurisdictional telepsychology, temporary authorization to practice, or both.

3. During the course of any investigation, a psychologist may not change his or her home state licensure. A home state's state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home state's state psychology regulatory authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of the investigation, the psychologist may change his or her home state licensure. The Commission shall promptly notify the new home state of any such decisions as provided in the rules of the Commission. All information provided to the Commission or distributed by compact states pursuant to the psychologist shall be confidential, filed under seal, and used for investigatory or disciplinary matters. The Commission may create additional rules for mandated or discretionary sharing of information by compact states.

ARTICLE IX

COORDINATED LICENSURE INFORMATION SYSTEM

A. The Commission shall provide for the development and maintenance of a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on all psychologists or individuals to whom the Psychology Interjurisdictional Compact is applicable in all compact states as defined by the rules of the Commission.

B. Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the Coordinated Database on all licensees as required by the rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Significant investigatory information;
4. Adverse actions against a psychologist's license;
5. An indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;
6. Nonconfidential information related to alternative program participation information;
7. Any denial of application for licensure, and the reasons for such denial; and
8. Other information which may facilitate the administration of the Compact, as determined by the rules of the Commission.

C. The Coordinated Database administrator shall promptly notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

D. Compact states reporting information to the Coordinated Database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

E. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the Coordinated Database.

ARTICLE X

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

A. The compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

1. The Commission is a body politic and an instrumentality of the compact states.

2. Venue is proper and judicial proceedings by or against the Commission

shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in the Psychology Interjurisdictional Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. The Commission shall consist of one voting representative appointed by each compact state who shall serve as that state's Commissioner. The state psychology regulatory authority shall appoint the state's delegate. This delegate shall be empowered to act on behalf of the compact state. This delegate shall be limited to:

- a. Executive director, executive secretary, or similar executive;
- b. Current member of the state psychology regulatory authority of a compact state; or
- c. Designee empowered with the appropriate delegate authority to act on behalf of the compact state.

2. Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the compact state in which the vacancy exists.

3. Each Commissioner shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

4. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

5. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article XI.

6. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:

- a. Noncompliance of a compact state with its obligations under the Compact;
- b. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
- c. Current, threatened, or reasonably anticipated litigation against the Commission;
- d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;
- e. Accusation against any person of a crime or formally censuring any person;
- f. Disclosure of trade secrets or commercial or financial information which is privileged or confidential;
- g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- h. Disclosure of investigatory records compiled for law enforcement purposes;
- i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or
- j. Matters specifically exempted from disclosure by federal and state statute.

7. If a meeting, or portion of a meeting, is closed pursuant to this Article, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the Commissioners, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including, but not limited to:

- 1. Establishing the fiscal year of the Commission;
- 2. Providing reasonable standards and procedures:
 - a. For the establishment and meetings of other committees; and
 - b. Governing any general or specific delegation of any authority or function of the Commission;
- 3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings, and proprietary information, including trade secrets. The Commission may meet in closed session only after a

majority of the Commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each Commissioner with no proxy votes allowed;

4. Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the Commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar law of any compact state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;

6. Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees;

7. Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment, reserving, or both of all of its debts and obligations;

8. The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact states;

9. The Commission shall maintain its financial records in accordance with the bylaws; and

10. The Commission shall meet and take such actions as are consistent with the provisions of the Compact and the bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of the Compact. The rules shall have the force and effect of law and shall be binding in all compact states;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a compact state;

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety or conflict of interest;

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

9. To establish a budget and make expenditures;

10. To borrow money;

11. To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in the Compact and the bylaws;

12. To provide and receive information from, and to cooperate with, law enforcement agencies;

13. To adopt and use an official seal; and

14. To perform such other functions as may be necessary or appropriate to achieve the purposes of the Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice, and telepsychology practice.

E. The Executive Board

The elected officers shall serve as the Executive Board, which shall have the power to act on behalf of the Commission according to the terms of the Compact.

1. The Executive Board shall be comprised of six members:

a. Five voting members who are elected from the current membership of the Commission by the Commission; and

b. One ex-officio, nonvoting member from the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.

2. The ex-officio member must have served as staff or member on a state psychology regulatory authority and will be selected by its respective organization.

3. The Commission may remove any member of the Executive Board as provided in bylaws.

4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to the Compact, fees paid by compact states such as annual dues, and any other applicable fees;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each compact state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission which shall promulgate a rule binding upon all compact states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the compact states, except by and with the authority of the compact state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall have no greater liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities, than a state employee would have under the same or similar circumstances; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE XI

RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the compact states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Psychology Interjurisdictional Compact, then such rule shall have no further force and effect in any compact state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

1. On the web site of the Commission; and

2. On the web site of each compact state's state psychology regulatory authority or the publication in which each state would otherwise publish

proposed rules.

E. The notice of proposed rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
2. The text of the proposed rule or amendment and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person;
and
4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five persons who submit comments independently of each other;
2. A governmental subdivision or agency; or
3. A duly appointed person in an association that has at least twenty-five members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this Article shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this Article.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this paragraph, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or compact state funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the web site of the Commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE XII

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each compact state shall enforce the Psychology Interjurisdictional Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The Compact and the rules promulgated under the Compact shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of the Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, the Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under the Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default, or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to remedy the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the compact states, and all rights, privileges, and benefits conferred by the Compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the Commission to the Governor, the majority and minority leaders of the defaulting state's legislature or the Speaker if no such leaders exist, and each of the compact states.

4. A compact state which has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.

5. The Commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a compact state, the Commission shall attempt to resolve disputes related to the Compact which arise among compact states and between Compact and noncompact states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the Commission.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices against a compact state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies in this Article shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE XIII

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

A. The Psychology Interjurisdictional Compact shall come into effect on the date on which the Compact is enacted into law in the seventh compact state. The provisions which become effective at that time shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state which joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule which has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any compact state may withdraw from this Compact by enacting a statute repealing the same.

1. A compact state's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's state psychology regulatory authority to comply with the investigative and adverse action reporting requirements of the Compact prior to the effective date of withdrawal.

D. Nothing contained in the Compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a noncompact state which does not conflict with the Compact.

E. The Compact may be amended by the compact states. No amendment to the Compact shall become effective and binding upon any compact state until it is enacted into the law of all compact states.

ARTICLE XIV

CONSTRUCTION AND SEVERABILITY

The Psychology Interjurisdictional Compact shall be liberally construed so as to effectuate the purposes of the Compact. If the Compact shall be held contrary to the constitution of any state which is a member of the Compact, the Compact shall remain in full force and effect as to the remaining compact states.

Sec. 71. Section 77-2704.12, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-2704.12 (1) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by (a) any nonprofit organization created exclusively for religious purposes, (b) any nonprofit organization providing services exclusively to the blind, (c) any nonprofit private educational institution established under sections 79-1601 to 79-1607, (d) any regionally or nationally accredited, nonprofit, privately controlled college or university with its primary campus physically located in Nebraska, (e) any nonprofit (i) hospital, (ii) health clinic when one or more hospitals or the parent corporations of the hospitals own or control the health clinic for the purpose of reducing the cost of health services or when the health clinic receives federal funds through the United States Public Health Service for the purpose of serving populations that are medically underserved, (iii) skilled nursing facility, (iv) intermediate care facility, (v) assisted-living facility, (vi) intermediate care facility for persons with developmental disabilities, (vii) nursing facility, (viii) home health agency, (ix) hospice or hospice service, (x) respite care service, (xi) mental health substance use treatment center licensed under the Health Care Facility Licensure Act, or (xii) ~~substance abuse treatment center licensed under the Health Care Facility Licensure Act, or~~ (xiii) center for independent living as defined in 29 U.S.C. 796a, (f) any nonprofit licensed residential child-caring agency, (g) any nonprofit licensed child-placing agency, or (h) any nonprofit organization certified by the Department of Health and Human Services to provide community-based services for persons with developmental disabilities.

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

(3) The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of building materials which are physically annexed to the structure and which subsequently belong to the owner of the organization or institution. The appointment of purchasing agents shall be in writing and occur prior to having any building materials annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may apply for a refund of or use as a credit against a future use tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project for a licensed not-for-profit institution.

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

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

Sec. 72. Original sections 38-122, 38-131, 38-321, 38-1201, 38-1204, 38-1205, 38-1208, 38-1215, 38-1216, 38-1219, 38-1221, 38-1224, 38-1225, 38-1229, 38-1232, 38-1237, 38-2025, 38-2026, 38-2104, 38-2112, 38-2115, 38-2117, 38-2122, 38-2123, 38-2124, 38-2518, 38-2519, 38-2521, 38-2826.01, 38-3101, 38-3111, 44-772, 44-792, 69-2429, 71-423, 71-430, 71-507, 71-906, and 71-1913, Reissue Revised Statutes of Nebraska, sections 71-403, 71-413, 71-474, 71-1908, 71-2411, 71-4204, 71-4205, 71-4209, and 77-2704.12, Revised Statutes Cumulative Supplement, 2016, and sections 28-401, 28-470, 29-2261, 38-319, 38-1217, 38-1218, 38-2125, 71-401, 71-2445, and 71-2454, Revised Statutes Supplement, 2017, are repealed.