

2006

STATE OF NEBRASKA

**STATUTES RELATING TO
ACUPUNCTURE
MEDICINE AND SURGERY
OSTEOPATHIC MEDICINE AND SURGERY
PHYSICIAN ASSISTANTS**

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



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STATUTES PERTAINING TO THE PRACTICE OF MEDICINE AND SURGERY

71-1,102. Practice of medicine and surgery, defined. For the purpose of the Uniform Licensing Law, and except as provided in section 71-1,103 or as otherwise provided by law, the following classes of persons shall be deemed to be engaged in the practice of medicine and surgery: (1) Persons who publicly profess to be physicians, surgeons, or obstetricians, or publicly profess to assume the duties incident to the practice of medicine, surgery, or obstetrics, or any of their branches; (2) persons who prescribe and furnish medicine for some illness, disease, ailment, injury, pain, deformity, or any physical or mental condition, or treat the same by surgery; (3) persons holding themselves out to the public as being qualified in the diagnosis or treatment of diseases, ailments, pain, deformity, or any physical or mental condition, or injuries of human beings; (4) persons who suggest, recommend, or prescribe any form of treatment for the intended palliation, relief, or cure of any physical or mental ailment of any person; (5) persons who maintain an office for the examination or treatment of persons afflicted with ailments, diseases, injuries, pain, deformity, or any physical or mental condition of human beings; (6) persons who attach to their name the title of M.D., surgeon, physician, physician and surgeon, or any word or abbreviation indicating that they are engaged in the treatment or diagnosis of ailments, diseases, injuries, pain, deformity, infirmity, or any physical or mental condition of human beings; and (7) persons who are physically located in another state but who, through the use of any medium, including an electronic medium, perform for compensation any service which constitutes the healing arts that would affect the diagnosis or treatment of an individual located in this state.

Source: Laws 1927, c. 167, § 100, p. 482; C.S.1929, § 71-1401; Laws 1943, c. 150, § 18, p. 546; R.S.1943, § 71-1,102; Laws 1969, c. 563, § 1, p. 2291; Laws 1997, LB 452, § 1; Laws 2006, LB 833, § 2. Effective date July 14, 2006.

71-1,103. Medicine and surgery; practice; persons excepted. 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 and surgery who are studying in an accredited school or college of medicine and who gratuitously prescribe for and treat disease under the supervision of a licensed physician;
- (5) Physicians and surgeons of the United States Armed Forces or Public Health Service or United States Department of Veterans Affairs when acting in the line of such duty in this state;
- (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) Physicians who are licensed in good standing to practice medicine in another state and who have been recommended by the secretary of the board of examiners in the state of licensure and granted temporary practice rights by the Board of Medicine and Surgery, with the approval of the department, for a period not to exceed three months in any twelve-month period;
- (10) 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;
- (11) Dentists practicing their profession when licensed and practicing in accordance with sections 71-183 to 71-191;
- (12) Optometrists practicing their profession when licensed and practicing under and in accordance with sections 71-1,133 to 71-1,136;
- (13) Osteopathic physicians practicing their profession if licensed and practicing under and in accordance with sections 71-1,137 and 71-1,141;
- (14) Chiropractors practicing their profession if licensed and practicing under sections 71-177 to 71-182;
- (15) Podiatrists practicing their profession when licensed and practicing under and in accordance with sections 71-173 to 71-176;
- (16) Psychologists practicing their profession when licensed and practicing under and in accordance with sections 71-1,206.01 to 71-1,206.35;

(17)(a) Until July 1, 2007, advanced practice registered nurses and certified registered nurse anesthetists practicing their professions and practicing under and in accordance with the Advanced Practice Registered Nurse Act; and

(b) On and after July 1, 2007, advanced practice registered nurses practicing in their clinical specialty areas when licensed under the Advanced Practice Registered Nurse Licensure Act and practicing under and in accordance with their respective certification acts;

(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) 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 (9) 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 71-1,102 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.

Source: Laws 1927, c. 167, § 101, p. 482; C.S.1929, § 71-1402; Laws 1943, c. 150, § 19, p. 547; R.S.1943, § 71-1,103; Laws 1961, c. 337, § 12, p. 1056; Laws 1969, c. 563, § 2, p. 2291; Laws 1969, c. 564, § 1, p. 2297; Laws 1971, LB 150, § 1; Laws 1984, LB 724, § 1; Laws 1989, LB 342, § 15; Laws 1991, LB 2, § 11; Laws 1992, LB 291, § 17; Laws 1992, LB 1019, § 40; Laws 1994, LB 1210, § 55; Laws 1996, LB 414, § 3; Laws 1996, LB 1044, § 420; Laws 1997, LB 452, § 2; Laws 1999, LB 366, § 9; Laws 1999, LB 828, § 78; Laws 2000, LB 819, § 86; Laws 2000, LB 1115, § 14; Laws 2002, LB 1062, § 17; Laws 2005, LB 256, § 23; Laws 2006, LB 833, § 3. Effective date July 14, 2006.

71-1,104. Medicine and surgery; license; qualifications; foreign medical graduates; waiver; requirements; department; powers. (1) Each applicant for a license to practice medicine and surgery shall: (a)(i) Present proof that he or she is a graduate of an accredited school or college of medicine, (ii) if a foreign medical graduate, provide a copy of a permanent certificate issued by the Educational Commission on 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 Immigration and Naturalization Service, or (iii) 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 on 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 Department of Health and Human Services Regulation and Licensure;

(b) Present proof that he or she has served at least one year of graduate medical education approved by the Board of Medicine and Surgery or, if a foreign medical graduate, present proof that he or she has served at least three years of graduate medical education approved by the board;

(c) Pass a licensing examination designated by the board and the department covering appropriate medical subjects; and

(d) Present proof satisfactory to the board that he or she, within the three years immediately preceding the application for licensure, (i) 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, (ii) has had at least one year of graduate medical education as described in subdivision (1)(b) of this section, (iii) has completed continuing education in medicine and surgery approved by the board, (iv) has completed a refresher course in medicine and surgery approved by the board, or (v) has completed the special purposes examination approved by the board.

(2) The department, upon the recommendation of the board, may waive any requirement for more than one year of approved graduate medical education, as set forth in subdivision (1)(b) of this section, if the applicant has served at least one year of graduate medical education approved by such board and if the following conditions are met:

(a) The applicant meets all other qualifications for a license to practice medicine and surgery;

(b) The applicant submits satisfactory proof that the issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of this state; and

(c) The applicant submits proof that he or she will enter into the practice of medicine in a health profession shortage area designated as such by the Nebraska Rural Health Advisory Commission immediately upon obtaining a license to practice medicine and surgery based upon a waiver of the requirement for more than one year of graduate medical education.

(3) A license issued on the basis of such a waiver shall be subject to the limitation that the licensee continue in practice in the health profession shortage area and such other limitations, if any, deemed appropriate under the circumstances by the Director of Regulation and Licensure, upon recommendation of the board, which may include, but shall not be limited to, supervision by a medical practitioner, training, education, and scope of practice. After two years of practice under a limited license issued on the basis of a waiver of the requirement of more than one year of graduate medical education, a licensee may apply to the department for removal of the limitations. The director, upon the recommendation of the board, may grant or deny such application or may continue the license with limitations.

(4) In addition to any other grounds for disciplinary action against the license contained in the Uniform Licensing Law, the department may take disciplinary action against a license granted on the basis of a waiver of the requirement of more than one year of graduate medical education for violation of the limitations on the license. The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations for the purpose of implementing and administering this section.

Source: Laws 1927, c. 167, § 102, p. 483; C.S.1929, § 71-1403; Laws 1943, c. 150, § 20, p. 548; R.S.1943, § 71-1,104; Laws 1963, c. 408, § 6, p. 1312; Laws 1969, c. 563, § 3, p. 2293; Laws 1971, LB 150, § 2; Laws 1975, LB 92, § 3; Laws 1976, LB 877, § 25; Laws 1978, LB 761, § 1; Laws 1985, LB 250, § 13; Laws 1987, LB 390, § 1; Laws 1990, LB 1064, § 13; Laws 1991, LB 400, § 22; Laws 1994, LB 1210, § 56; Laws 1994, LB 1223, § 14; Laws 1996, LB 1044, § 421; Laws 1999, LB 828, § 79; Laws 2002, LB 1062, § 18; Laws 2003, LB 242, § 39. Operative date July 1, 2004.

71-1,104.01. Physician; genetic tests; written informed consent; requirements; Department of Health and Human Services Regulation and Licensure; duty. (1) Except as provided in section 71-519 and except for newborn screening tests ordered by physicians to comply with the law of the state in which the infant was born, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function shall not order a predictive genetic test without first obtaining the written informed consent of the patient to be tested. Written informed consent consists of a signed writing executed by the patient or the representative of a patient lacking decisional capacity that confirms that the physician or individual acting under the delegated authority of the physician has explained, and the patient or his or her representative understands:

- (a) The nature and purpose of the predictive genetic test;
- (b) The effectiveness and limitations of the predictive genetic test;
- (c) The implications of taking the predictive genetic test, including the medical risks and benefits;
- (d) The future uses of the sample taken to conduct the predictive genetic test and the genetic information obtained from the predictive genetic test;
- (e) The meaning of the predictive genetic test results and the procedure for providing notice of the results to the patient; and
- (f) Who will have access to the sample taken to conduct the predictive genetic test and the genetic information obtained from the predictive genetic test, and the patient's right to confidential treatment of the sample and the genetic information.

(2) The Department of Health and Human Services Regulation and Licensure shall develop and distribute a model informed consent form for purposes of this section. The department shall include in the model form all of the information required under subsection (1) of this section. The department shall distribute the model form and all revisions to the form to physicians and other individuals subject to this section upon request and at no charge. The department shall review the model form at least annually for five years after the first model form is distributed and shall revise the model form if necessary to make the form reflect the latest developments in medical genetics. The department may also develop and distribute a pamphlet that provides further explanation of the information included in the model form.

(3) If a patient or his or her representative signs a copy of the model informed consent form developed and distributed under subsection (2) of this section, the physician or individual acting under the delegated authority of the physician shall give the patient a copy of the signed informed consent form and shall include the original signed informed consent form in the patient's medical record.

(4) If a patient or his or her representative signs a copy of the model informed consent form developed and distributed under subsection (2) of this section, the patient is barred from subsequently bringing a civil action for damages against the physician, or an individual to whom the physician delegated authority to perform a selected act, task, or function, who ordered the predictive genetic test, based upon failure to obtain informed consent for the predictive genetic test.

(5) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a physician reasonably well-qualified to order and interpret the predictive genetic test would know. A person acting under the delegated authority of a physician shall understand and be qualified to provide the information required by subsection (1) of this section.

(6) For purposes of this section:

- (a) Genetic information means information about a gene, gene product, or inherited characteristic derived from a genetic test;
- (b) Genetic test means the analysis of human DNA, RNA, chromosomes, epigenetic status, and those tissues, proteins, and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. Tests of tissues, proteins, and metabolites are included only when generally accepted in the scientific and medical communities as being specifically determinative of a heritable or somatic disease-related genetic condition. Genetic test does not include a routine analysis, including a chemical analysis, of body fluids or tissues unless conducted specifically to determine a heritable or somatic

disease-related genetic condition. Genetic test does not include a physical examination or imaging study. Genetic test does not include a procedure performed as a component of biomedical research that is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed on January 1, 2003; and

(c) Predictive genetic test means a genetic test for an otherwise undetectable genotype or karyotype relating to the risk for developing a genetically related disease or disability, the results of which can be used to substitute a patient's prior risk based on population data or family history with a risk based on genotype or karyotype. Predictive genetic test does not include diagnostic testing conducted on a person exhibiting clinical signs or symptoms of a possible genetic condition. Predictive genetic testing does not include prenatal genetic diagnosis, unless the prenatal testing is conducted for an adult-onset condition not expected to cause clinical signs or symptoms before the age of majority.

Source: Laws 2001, LB 432, § 1; Laws 2003, LB 119, § 1; Laws 2005, LB 301, § 10; Laws 2006, LB 994, § 85. Operative date April 13, 2006.

71-1,104.02 to 71-1,104.05. Repealed. Laws 1991, LB 456, §40.

71-1,104.06. Medicine and surgery; Board of Medicine and Surgery; report complaints; Attorney General; duty. The Board of Medicine and Surgery shall provide the Attorney General with copies of all complaints it receives which allege or may involve possible statutory violations by the licensee. The Attorney General shall determine the appropriate legal action to take, if any, against the licensee.

Source: Laws 1982, LB 448, § 6; Laws 1999, LB 828, § 80. Effective date August 28, 1999.

71-1,105. Accredited school or college of medicine, defined. An accredited school or college of medicine for the purpose of the Uniform Licensing Law shall be one approved by the department upon the recommendation of the Board of Medicine and Surgery, and such school or college shall meet and maintain generally minimum standards prescribed by the board. Such minimum standards shall apply equally to all accredited schools, and any school to be accredited shall permit inspections by the department.

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

Source: Laws 1927, c. 167, § 103, p. 483; C.S.1929, § 71-1404; Laws 1943, c. 150, § 21, p. 549; R.S.1943, § 71-1,105; Laws 1969, c. 563, § 8, p. 2295; Laws 1989, LB 342, § 16; Laws 1996, LB 1044, § 422; Laws 1999, LB 828, § 81. Effective date August 28, 1999.

71-1,106. Medicine and surgery; examinations for license. (1) Each applicant shall be examined in accordance with the teachings of the school of medicine which he or she desires to practice.

(2) The members of the Board of Medicine and Surgery need not be present at the examination given to applicants for licensure when a national standardized examination is utilized. Such board may delegate the administration of such examination to the department or another person. A majority of the members of such board shall be present at any other written examination given to applicants for licensure.

At least a majority of the members of the board shall be present at any oral examination given. The oral examination questions shall be limited to the technical knowledge of the practice of medicine and surgery.

Source: Laws 1927, c. 167, § 104, p. 484; C.S.1929, § 71-1405; R.S.1943, § 71-1,106; Laws 1982, LB 448, § 4; Laws 1996, LB 1044, § 423; Laws 1999, LB 828, § 82. Effective date August 28, 1999.

71-1,107. Medicine and surgery; examination; waiver; when authorized; fee. The Department of Health and Human Services Regulation and Licensure may accept in lieu of the examination provided in section 71-1,104 a certificate of examination issued by the National Board of Medical Examiners of the United States of America, but every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued in medicine and surgery without examination based upon a license by examination held in another state, territory, or the District of Columbia.

Source: Laws 1927, c. 167, §105, p. 484; C.S. 1929, §71-1406; R.S. 1943, §71-1,107; Laws 1969, c. 563, §9, p. 2296; Laws 1996, LB 1044, §424. Operative date January 1, 1997.

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

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

(2) Graduate medical education shall mean a period of supervised educational training by a graduate of an accredited school or college of medicine or an accredited school or college of osteopathic medicine, which training has been approved by the department upon recommendation of the board;

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

(4) Accredited hospital shall mean a hospital accredited by the department upon recommendation of the board;

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

(6) An accredited school or college of osteopathic medicine shall mean any school or college of osteopathic medicine accredited as such under the laws of the State of Nebraska.

Source: Laws 1969, c. 560, § 7, p. 2283; Laws 1971, LB 150, § 4; Laws 1989, LB 342, § 17; Laws 1996, LB 1044, § 425; Laws 1999, LB 828, § 83. Effective date August 28, 1999.

71-1,107.02. Department; temporary educational and visiting faculty permits; issue; when. The department, upon the recommendation of the Board of Medicine and Surgery, shall have authority, in the department's discretion, to issue temporary educational permits and visiting faculty permits to qualified applicants in accordance with sections 71-1,107.01 to 71-1,107.14.

Source: Laws 1969, c. 560, § 8, p. 2283; Laws 1971, LB 150, § 5; Laws 1996, LB 1044, § 426; Laws 1999, LB 828, § 84. Effective date August 28, 1999.

71-1,107.03. Temporary educational or visiting faculty permit; use. The holder of a temporary educational permit or of a visiting faculty permit shall be entitled to practice medicine and surgery and any of its allied specialties, including prescribing medicine and narcotics, while serving in a supervised educational program or in an approved graduate medical education program conducted by an accredited hospital in the State of Nebraska or by an accredited school or college of medicine of the State of Nebraska, but neither the holder of a temporary educational permit nor the holder of a visiting faculty permit shall be qualified to engage in the practice of medicine and surgery or any of its allied specialties within the State of Nebraska and outside of the assigned training or teaching program.

Source: Laws 1969, c. 560, § 9, p. 2283; Laws 1971, LB 150, § 6.

71-1,107.04. Temporary educational or visiting faculty permit; applicant; qualifications. Before any temporary educational permit or visiting faculty permit is issued pursuant to sections 71-1,107.01 to 71-1,107.14, the department, upon recommendation of the Board of Medicine and Surgery, shall first determine that the applicant for such permit is of good moral character and that such applicant has otherwise met all of the requirements of sections 71-1,107.01 to 71-1,107.14 relating to issuing any such permit.

Source: Laws 1969, c. 560, § 10, p. 2284; Laws 1971, LB 150, § 7; Laws 1996, LB 1044, § 427; Laws 1999, LB 828, § 85. Effective date August 28, 1999.

71-1,107.05. Temporary educational permit or visiting faculty permit; rules and regulations; holder subject to. Except as otherwise provided by law, the holder of any temporary educational permit or visiting faculty permit shall be subject to all of the rules and regulations prescribed for physicians regularly licensed in the State of Nebraska and such other rules and regulations as may be adopted by the department upon the recommendation of the Board of Medicine and Surgery with respect to such permits in order to carry out sections 71-1,107.01 to 71-1,107.14.

Source: Laws 1969, c. 560, § 11, p. 2284; Laws 1971, LB 150, § 8; Laws 1996, LB 1044, § 428; Laws 1999, LB 828, § 86. Effective date August 28, 1999.

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

Source: Laws 1969, c. 560, § 12, p. 2284; Laws 1971, LB 150, § 9; Laws 1989, LB 342, § 18; Laws 1996, LB 1044, § 429. Operative date January 1, 1997.

71-1,107.07. Temporary educational permit; application; designate educational program. Before granting any temporary educational permit, the Department of Health and Human Services Regulation and Licensure shall ascertain by

evidence satisfactory to such board that an accredited hospital or school or college of medicine in the State of Nebraska has requested the issuance of a temporary educational permit for an applicant to serve as a graduate student in its approved program for the period involved and any application for the issuance of such permit shall be signed by the applicant requesting that such permit be issued to him or her and shall designate the specified approved graduate medical educational program with respect to which such permit shall apply.

Source: Laws 1969, c. 560, §13, p. 2284; Laws 1971, LB 150, §10; Laws 1996, LB 1044, §430. Operative date January 1, 1997.

71-1,107.08. Visiting faculty permit; application; contents. Before a visiting faculty permit shall be issued, the Department of Health and Human Services Regulation and Licensure shall determine on the basis of evidence satisfactory to the department that an accredited school or college of medicine in the State of Nebraska has requested issuance of such visiting faculty permit for the individual involved to serve as a member of the faculty of such school or college of medicine and that the applicant for such permit has met the requirements of sections 71-1,107.01 to 71-1,107.14. Any application for issuing a visiting faculty permit shall be signed by the applicant to whom such permit is to be issued and shall designate the accredited school or college of medicine where such applicant proposes to serve as a member of the faculty and shall outline the faculty duties to be performed pursuant to the permit.

Source: Laws 1969, c. 560, §14, p. 2284; Laws 1971, LB 150, §11; Laws 1996, LB 1044, §431. Operative date January 1, 1997.

71-1,107.09. Temporary educational or visiting faculty permits; recommend, when. The recommendation of the Board of Medicine and Surgery for the issuance of any temporary educational permits or any visiting faculty permits shall be made at regular meetings of such board, but the president or one other member of the board and its executive secretary jointly shall have the power to recommend the issuance of such permits between the meetings of the board, which permits shall be subject to approval or disapproval at the next subsequent meeting of the board.

Source: Laws 1969, c. 560, § 15, p. 2285; Laws 1971, LB 150, § 12; Laws 1999, LB 828, § 87. Effective date August 28, 1999.

71-1,107.10. Temporary educational or visiting faculty permit; registration fee. (1) The recipient of a temporary educational permit shall pay an annual registration fee.

(2) The recipient of a visiting faculty permit shall pay an annual registration fee.

Source: Laws 1969, c. 560, § 16, p. 2285; Laws 1971, LB 150, § 13; Laws 1996, LB 1044, § 432; Laws 1999, LB 828, § 88; Laws 2003, LB 242, § 40. Operative date July 1, 2004.

71-1,107.11. Temporary educational or visiting faculty permit; revocation; grounds. Any permit granted under the authority of sections 71-1,107.01 to 71-1,107.14 may be suspended, limited, or revoked by the department upon recommendation of the Board of Medicine and Surgery at any time upon a finding that the reasons for issuing such permit no longer exist or that the person to whom such permit has been issued is no longer qualified to hold such permit.

Source: Laws 1969, c. 560, § 17, p. 2285; Laws 1971, LB 150, § 14; Laws 1996, LB 1044, § 433; Laws 1999, LB 828, § 89. Effective date August 28, 1999.

71-1,107.12. Temporary educational or visiting faculty permit; holder; when effective. The holder of a temporary educational permit or of a visiting faculty permit shall not be entitled to a license for the practice of medicine and surgery or any of its allied specialties in the State of Nebraska unless and until such individual meets all of the requirements required by law for issuing such a regular license for practice of medicine and surgery.

Source: Laws 1969, c. 560, §18, p. 2286.

71-1,107.13. Temporary educational permit; to whom issued; qualifications. A temporary educational permit may be issued to graduates of foreign schools or colleges of medicine or to individuals if the applicant, in addition to meeting the other requirements for the issuance of such permit, presents to the department a copy of a permanent certificate of the Educational Commission on Foreign Medical Graduates currently effective and relating to such applicant or, in lieu thereof, such credentials as are necessary to certify to successful passage of 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 Immigration and Naturalization Service or, 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 on Foreign Medical Graduates examination but has not yet received a permanent certificate attesting to the same, and provides such credentials as are necessary to certify the same to the department, at such time as the department upon recommendation of the Board of Medicine and Surgery determines, and, if so directed by the department, passes an examination prescribed by the department upon recommendation of the board to measure his or her clinical

competence to proceed to advanced training before advancing beyond the initial phase of the training program, and if such examination is required, pays the required fee.

Source: Laws 1969, c. 560, § 19, p. 2286; Laws 1971, LB 150, § 15; Laws 1974, LB 811, § 10; Laws 1978, LB 761, § 2; Laws 1991, LB 2, § 12; Laws 1996, LB 1044, § 434; Laws 1999, LB 828, § 90; Laws 2003, LB 242, § 41. Operative date July 1, 2004.

71-1,107.14. Visiting faculty permit; issuance; conditions. A visiting faculty permit may be issued to graduates of foreign schools or colleges of medicine or to individuals if an accredited college or school of medicine in the State of Nebraska has requested that such permit be issued. It shall not be necessary for such applicant to provide a certificate of the Educational Commission on Foreign Medical Graduates as required in the case of temporary educational permits. If directed by the department an applicant for a visiting faculty permit may be required to pass an examination prescribed by the department upon recommendation of the Board of Medicine and Surgery to measure his or her clinical competence to practice medicine and if such examination is required the applicant shall pay the required fee.

Source: Laws 1971, LB 150, § 16; Laws 1974, LB 811, § 11; Laws 1996, LB 1044, § 435; Laws 1999, LB 828, § 91; Laws 2003, LB 242, § 42. Operative date July 1, 2004.

71-1,107.15. Physician assistants; encourage utilization. The Legislature finds:

(1) That in its concern with the geographic maldistribution of health care services in Nebraska it is essential to develop additional health manpower;

(2) That it is essential to encourage the more effective utilization of the skills of physicians by enabling them to delegate health care tasks to qualified physician assistants when such delegation is consistent with the patient's health and welfare; and

(3) That sections 71-1,107.15 to 71-1,107.30 are established to encourage the utilization of such physician assistants by physicians.

Source: Laws 1973, LB 101, § 1; R.S. Supp., 1973, §85-179.04; Laws 1985, LB132, §1. Effective date April 16, 1985.

71-1,107.16. Physician assistants; terms, defined. For purposes of sections 71-1,107.15 to 71-1,107.30, unless the context otherwise requires:

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

(2) Board means the Board of Medicine and Surgery;

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

(4) Physician assistant means any person who graduates from a program approved by the Commission on Accreditation of Allied Health Education Programs or its predecessor or successor agency and the board, who satisfactorily completes a proficiency examination, and whom the board, with the concurrence of the department, approves to perform medical services under the supervision of a physician or group of physicians approved by the board to supervise such assistant;

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

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

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

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

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

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

Source: Laws 1973, LB 101, § 2; R.S.Supp.,1973, § 85-179.05; Laws 1985, LB 132, § 2; Laws 1993, LB 316, § 1; Laws 1996, LB 1044, § 436; Laws 1996, LB 1108, § 8; Laws 1999, LB 828, § 92; Laws 2001, LB 209, § 8. Effective date February 14, 2001.

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

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

(b) In any other office which is operated by the supervising physician with the personal presence of the supervising

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

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

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

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

Source: Laws 1973, LB 101, §3; R.S. Supp., 1973, §85-179.06; Laws 1985, LB 132, §3; Laws 1993, LB 316, §2; Laws 1996, LB 1108, §9. Effective date April 16, 1996.

71-1,107.18. Physician assistants; trainee; services performed. Notwithstanding any other provision of law, a trainee may perform medical services when he or she renders such services within the scope of an approved program.

Source: Laws 1973, LB 101, §4; R.S. Supp., 1973, §85-179.07; Laws 1985, LB 132, §4. Effective date April 16, 1985.

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

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

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

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

(5) A physician assistant holding a certificate issued under this section prior to April 16, 1996, may continue to practice under the certificate until it expires and shall be considered licensed for purposes of the statutes and rules and regulations of Nebraska. Upon expiration of the certificate, the physician assistant may apply for a license and shall be granted a license if he or she would otherwise qualify for renewal of a certificate prior to April 16, 1996. Any reference to certified physician assistant in the rules and regulations of the department prior to April 16, 1996, shall be construed to refer to licensed physician assistant until changed by the department.

Source: Laws 1973, LB 101, §5; R.S. Supp., 1973, §85-179.08; Laws 1985, LB 132, §5; Laws 1996, LB 1108, §10. Effective date April 16, 1996.

71-1,107.20. Physician assistants; board; guidelines; formulate. (1) The board shall formulate guidelines for the consideration of applications by a licensed physician or physicians to supervise physician assistants. Any application made by a physician or physicians shall include all of the following:

(a) The qualifications, including related experience, of the physician assistant intended to be employed;

(b) The professional background and specialty of the physician or physicians; and

(c) A description by the physician of his or her, or physicians of their, practice and the way in which the assistant or assistants shall be utilized. The application shall provide for the personal presence of the supervising physician in conformance with requirements established by the board under section 71-1,107.17.

(2) The board, with the concurrence of the department, shall approve an application by a licensed physician to supervise a physician assistant when the board is satisfied that the proposed assistant is a graduate of an approved program, has satisfactorily completed a proficiency examination, and is fully qualified to perform medical services under the responsible supervision of a licensed physician. The public shall be adequately protected by the arrangement proposed in the application.

(3) The board shall certify no more than two physician assistants for any practicing physician, except that this limitation may be waived by the board upon a showing of good cause by the practicing physician.

Source: Laws 1973, LB 101, §6; R.S. Supp., 1973, §§85-179.09; Laws 1985, LB 132, §6; Laws 1993, LB 316, §3. Effective date March 9, 1993.

71-1,107.21. Physician assistants; misrepresentation; penalty. Any person who has not been approved by the board, with the concurrence of the department, and who holds himself or herself out as a physician assistant, or who uses any other term to indicate or imply that he or she is a physician assistant, shall be guilty of a Class IV felony.

Source: Laws 1973, LB 101, §7; R.S. Supp., 1973, §§85-179.10; Laws 1977, LB 39, §319; Laws 1985, LB 132, §7. Effective date April 16, 1985.

71-1,107.22. Repealed. Laws 1981, LB 545, §52.

71-1,107.23. Physician assistants; supervision; certificates of approval; disciplinary actions; appeal; termination of supervision. The board, with the concurrence of the department, may limit, deny, suspend, or revoke the certificate of approval to supervise a physician assistant held by any physician when it finds that sections 71-1,107.15 to 71-1,107.30 or any of the rules and regulations adopted and promulgated by the board thereunder are not being complied with. In cases of failure to pay the required fees, denial shall be automatic. Any limitation, denial, suspension, or revocation may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

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

Source: Laws 1973, LB 101, §9; R.S. Supp., 1973, §§85-179.12; Laws 1985, LB 132, §8; Laws 1987, LB 473, §21; Laws 1988, LB 352, §117. Operative date July 1, 1989.

71-1,107.24. Physician assistants; Board of Examiners in Medicine and Surgery; rules and regulations; adopt. The board shall adopt rules and regulations necessary for the administration of physician assistant utilization. Such rules and regulations shall be adopted in accordance with Chapter 84, article 9. Rules and regulations shall be adopted to assure that every physician assistant performs his or her services under the responsible supervision and control of a physician or group of physicians. The board shall adopt all rules and regulations required and authorized by sections 71-1,107.15 to 71-1,107.30 only with the approval of the department.

Source: Laws 1973, LB 101, §10; R.S. Supp., 1973, §§85-179.13; Laws 1985, LB 132, §9. Effective date April 16, 1985.

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

Source: Laws 1973, LB 101, § 11; R.S. Supp., 1973, § 85-179.14; Laws 1985, LB 132, § 10; Laws 1996, LB 1108, § 11; Laws 1999, LB 828, § 93; Laws 2002, LB 1021, § 18. Operative date January 1, 2003.

71-1,107.26. Physician assistants; application; fees. (1) The biennial application to the board by a physician or group of physicians for certification to supervise a physician assistant shall be accompanied by the required fee.

(2) Upon approval by the board of an application for licensure of a physician assistant, the applicant shall pay the required fee, and each biennial application for renewal of the physician assistant license shall be accompanied by the required fee.

Source: Laws 1973, LB 101, § 12; R.S. Supp., 1973, § 85-179.15; Laws 1985, LB 132, § 11; Laws 1996, LB 1108, § 12; Laws 2001, LB 209, § 9; Laws 2003, LB 242, § 43. Operative date July 1, 2004.

71-1,107.27. Physician assistants; construction of sections. Nothing in sections 71-1,107.15 to 71-1,107.30 shall be construed as authorizing any physician assistant to engage in any of the health professions licensed by the department pursuant to Chapter 71, article 1, without having the proper license therefor.

Source: Laws 1973, LB 101, §13; R.S. Supp., 1973, §§85-179.16; Laws 1985, LB 132, §12. Effective date April 16, 1985.

71-1,107.28. Physician assistants; negligent acts; liability. Any physician or physician groups utilizing physician assistants shall be liable for any negligent acts or omissions of physician assistants while acting under their supervision and control.

Source: Laws 1973, LB 101, §14; R.S. Supp., 1973, §85-179.17; Laws 1985, LB 132, §13. Effective date April 16, 1985.

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

Source: Laws 1973, LB 101, §15; R.S. Supp., 1973, §85-179.18; Laws 1985, LB 132, §14; Laws 1996, LB 1108, §13. Effective date April 16, 1996.

71-1,107.30. Physician assistants; prescribe drugs and devices; restrictions. A physician assistant may prescribe drugs and devices as delegated to do so by a supervising physician. Any limitation placed by the supervising physician on the prescribing authority of the physician assistant shall be recorded on the physician assistant's scope of practice agreement established pursuant to rules and regulations adopted and promulgated under section 71-1,107.24. All prescriptions and prescription container labels shall bear the name of the supervising physician and the physician assistant. A physician assistant to whom has been delegated the authority to prescribe controlled substances shall obtain a federal Drug Enforcement Administration registration number. When prescribing Schedule II controlled substances, the prescription container label shall bear all information required by the federal Controlled Substances Act of 1970.

Source: Laws 1985, LB 132, §15; Laws 1992, LB 1019, §41; Laws 1999, LB 379, §4; Laws 1999, LB 828, §94; Laws 2005, LB 175, §1. Effective date September 4, 2005.

STATUTES PERTAINING TO THE PRACTICE OF OSTEOPATHIC MEDICINE AND SURGERY

71-1,137. Practice as osteopathic physicians, defined. For the purpose of the Uniform Licensing Law, the following classes of persons shall be deemed to be engaged in practice as osteopathic physicians: (1) Persons publicly professing to be osteopathic physicians or publicly professing to assume the duties incident to the practice of osteopathic physicians; and (2) persons who are graduates of a school or college of osteopathic medicine and who treat human ailments by that system of the healing art which was advocated and taught by the school or college of osteopathic medicine from which such person graduated at the time of his or her graduation as determined by the department after consultation with the Board of Medicine and Surgery. No license issued under this section shall authorize the person so licensed to perform surgical procedures except those usually performed by general practitioners, as determined by the department upon consultation with the board. Nothing in this section shall be construed to prohibit an osteopathic physician licensed in accordance with this section from serving as an assistant in surgery more complex than that usually performed by general practitioners, as determined above, when such surgery is performed by an osteopathic physician licensed pursuant to section 71-1,139.01 or by an osteopathic physician or doctor of medicine licensed pursuant to section 71-1,104. In no event shall this section or section 71-1,139.01 be construed as authorizing any physician to engage in any procedure which he or she is not qualified by training to perform according to the standards prevailing in the State of Nebraska at the time.

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

Source: Laws 1927, c. 167, § 115, p. 488; C.S.1929, § 71-1701; R.S.1943, § 71-1,137; Laws 1969, c. 565, § 1, p. 2299; Laws 1972, LB 1498, § 2; Laws 1981, LB 451, § 9; Laws 1989, LB 342, § 21; Laws 1996, LB 1044, § 442; Laws 1999, LB 828, § 103. Effective date August 28, 1999.

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

Source: Laws 1927, c. 167, §116, p. 488; C.S. 1929, §71-1702; R.S. 1943, §71-1,138; Laws 1961, c. 337, §13, p. 1057; Laws 1969, c. 565, §2, p. 2300; Laws 1989, LB 342, §22. Effective date February 25, 1989.

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

application for a license to practice as an osteopathic physician shall include the applicant's social security number.

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

Source: Laws 1927, c. 167, § 117, p. 489; C.S.1929, § 71-1703; R.S.1943, § 71-1,139; Laws 1981, LB 451, § 10; Laws 1989, LB 342, § 23; Laws 1996, LB 1044, § 443; Laws 1997, LB 752, § 159; Laws 1999, LB 828, § 104. Effective date August 28, 1999.

71-1,139.01. Osteopathic physician; license; requirements. (1) If a person (a) has graduated from an accredited school or college of osteopathic medicine since January 1, 1963, (b) meets all statutory requirements for licensure as an osteopathic physician, (c) has served one year of internship or its equivalent at an institution approved for such training by the Board of Medicine and Surgery, (d) after his or her internship, has taken and passed the examination provided in section 71-1,104, and (e) presents proof satisfactory to the board that he or she, within the three years immediately preceding the application for licensure, (i) has been in the active practice of the profession of osteopathic medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year, (ii) has had one year of graduate medical education as described in subdivision (1)(c) of this section, (iii) has completed continuing education in medicine and surgery or osteopathic medicine and surgery approved by the board, (iv) has completed a refresher course in medicine and surgery or osteopathic medicine and surgery approved by the board, or (v) has completed the special purposes examination approved by the board, such person, upon making application therefor, shall receive a license as a Doctor of Osteopathic Medicine and Surgery which shall qualify such person to practice osteopathic medicine and surgery.

(2) The department shall accept, in lieu of the examination provided in subdivision (1)(d) of this section, a certificate of examination issued by the National Board of Osteopathic Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued in osteopathic medicine and surgery without examination, based upon a license by examination held in another state or territory or the District of Columbia.

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

Source: Laws 1963, c. 408, § 1, p. 1310; Laws 1969, c. 565, § 3, p. 2301; Laws 1981, LB 451, § 11; Laws 1989, LB 342, § 24; Laws 1996, LB 1044, § 444; Laws 1999, LB 828, § 105; Laws 2002, LB 1062, § 33. Operative date July 20, 2002.

71-1,140. Accredited school or college of osteopathic medicine, defined. An accredited school or college of osteopathic medicine shall be one approved by the department upon the recommendation of the Board of Medicine and Surgery. An accredited school or college of osteopathic medicine shall meet and maintain general minimum standards prescribed by the board. The minimum standards shall apply equally to all such accredited schools and colleges. Any school or college seeking accreditation shall permit inspections by the department.

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

Source: Laws 1927, c. 167, § 118, p. 489; C.S.1929, § 71-1704; R.S.1943, § 71-1,140; Laws 1969, c. 565, § 4, p. 2301; Laws 1981, LB 451, § 12; Laws 1989, LB 342, § 25; Laws 1996, LB 1044, § 445; Laws 1999, LB 828, § 106. Effective date August 28, 1999.

71-1,140.01 to 71-1,140.03. Repealed. Laws 1969, c. 565, §6.

71-1,141. Osteopathic physician; license; scope. With respect to licenses issued pursuant to sections 71-1,139 and 71-1,139.01 and any renewals thereof, the Department of Health and Human Services Regulation and Licensure shall designate the extent of such practice as follows:

- (1) License to practice as an osteopathic physician; or
- (2) License to practice osteopathic medicine and surgery.

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

Source: Laws 1927, c. 167, §119, p. 490; C.S. 1929, §71-1705; R.S. 1943, §71-1,141; Laws 1969, c. 565, §5, p. 2302; Laws 1989, LB 342, §26; Laws 1996, LB 1044, §446. Operative date January 1, 1997.

STATUTES PERTAINING TO THE PRACTICE OF ACUPUNCTURE

71-1,344. Terms, defined. For purposes of sections 71-1,344 to 71-1,349 and elsewhere in the Uniform Licensing Law, unless the context otherwise requires:

(1) Acupuncture means the insertion, manipulation, and removal of acupuncture needles and the application of manual, mechanical, thermal, electrical, and electromagnetic treatment to such needles at specific points or meridians on the human body in an effort to promote, maintain, and restore health and for the treatment of disease, based on acupuncture theory. Acupuncture may include the recommendation of therapeutic exercises, dietary guidelines, and nutritional support to promote the effectiveness of the acupuncture treatment. Acupuncture does not include manipulation or mobilization of or adjustment to the spine, extraspinal manipulation, or the practice of medical nutrition therapy;

(2) Acupuncturist means a person engaged in the practice of acupuncture; and

(3) Board means the Board of Medicine and Surgery.

Source: Laws 2001, LB 270, § 8; Laws 2003, LB 242, § 80. Operative date July 1, 2004.

71-1,345. Acupuncture; exemptions. Sections 71-1,344 to 71-1,349 do not apply to:

(1) Any other health care practitioner credentialed under the Uniform Licensing Law practicing within the scope of his or her profession;

(2) A student practicing acupuncture under the supervision of a person licensed to practice acupuncture under the Uniform Licensing Law as part of a course of study approved by the department; or

(3) The practice of acupuncture by any person licensed or certified to practice acupuncture in any other jurisdiction when practicing in an educational seminar sponsored by a state-approved acupuncture or professional organization if the practice is supervised directly by a person licensed to practice acupuncture under the Uniform Licensing Law.

Source: Laws 2001, LB 270, § 9; Laws 2003, LB 242, § 81. Operative date July 1, 2004.

71-1,346. Acupuncture; license required; standard of care. It is unlawful to practice acupuncture on a person in this state unless the acupuncturist is licensed to practice acupuncture under the Uniform Licensing Law and has been presented by the patient with a prior letter of referral from or a medical diagnosis and evaluation completed by a practitioner licensed to practice medicine and surgery or osteopathic medicine and surgery within ninety days immediately preceding the date of an initial acupuncture treatment. An acupuncturist licensed under the Uniform Licensing Law shall provide the same standard of care to patients as that provided by a person licensed under the Uniform Licensing Law to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery.

Source: Laws 2001, LB 270, § 10. Effective date September 1, 2001.

71-1,347. Acupuncture; consent required. The practice of acupuncture shall not be performed upon any person except with the voluntary and informed consent of such person. Information provided in connection with obtaining such informed consent shall include, but not be limited to, the following:

(1) The distinctions and differences between the practice of acupuncture and the practice of medicine;

(2) The disclosure that an acupuncturist is not licensed to practice medicine or to make a medical diagnosis of the person's disease or condition and that a physician should be consulted for such medical diagnosis;

(3) The nature and the purpose of the acupuncture treatment; and

(4) Any medical or other risks associated with such treatment.

Source: Laws 2001, LB 270, § 11. Effective date September 1, 2001.

71-1,348. Acupuncture; license requirements. An applicant for an initial license to practice acupuncture shall apply to the department on forms provided by the department. At the time of application, the applicant shall present to the department proof that he or she:

(1) Is nineteen years of age or older and is of good moral character;

(2) Has graduated from, after having successfully completed the acupuncture curriculum requirements of, a formal, full-time acupuncture program at a board-approved university, college, or school of acupuncture which includes at least one thousand seven hundred twenty-five hours of entry-level acupuncture education consisting of a minimum of one thousand didactic and five hundred clinical hours;

(3) Has successfully passed an acupuncture examination approved by the board which shall include a comprehensive written examination in acupuncture theory, diagnosis and treatment technique, and point location; and

(4) Has successfully completed a clean-needle technique course approved by the board.

Source: Laws 2001, LB 270, § 12. Effective date September 1, 2001.

71-1,349. Rules and regulations. The board, with the approval of the department, shall adopt and promulgate rules and regulations regarding the licensing, conduct, and practice of acupuncturists. Such rules and regulations shall be adopted pursuant to the Administrative Procedure Act. The rules and regulations regarding conduct which constitutes sufficient grounds for revocation or suspension of a license or other disciplinary measures shall be deemed to constitute unprofessional

conduct under subdivision (10) of section 71-147.

Source: Laws 2001, LB 270, § 13. Effective date September 1, 2001.

71-1,350. Repealed. Laws 2003, LB 242, s. 154.

STATUTES PERTAINING TO THE NEBRASKA HOSPITAL-MEDICAL LIABILITY ACT

44-2840. Medical review panels; review claims; procedure; waiver. (1) Provision is hereby made for the establishment of medical review panels to review all malpractice claims against health care providers covered by the Nebraska Hospital-Medical Liability Act in advance of filing such actions.

(2) No action against a health care provider may be commenced in any court of this state before the claimant's proposed complaint has been presented to a medical review panel established pursuant to section 44-2841 and an opinion has been rendered by the panel.

(3) The proceedings for action by the medical review panel shall be initiated by the patient or his or her representative by notice in writing with copy of a proposed complaint served upon the director personally or by registered or certified mail. Such notice shall designate the claimant's choice of the physician to serve on the panel, claimant's suggestion of an attorney to serve, and the court where the action shall be filed, if necessary.

(4) The claimant may affirmatively waive his or her right to a panel review, and in such case the claimant may proceed to file his or her action directly in court. If the claimant waives the panel review, the claimant shall serve a copy of the complaint upon the director personally or by registered or certified mail at the time the action is filed in court.

Source: Laws 1976, LB 434, § 40; Laws 1984, LB 692, § 16; Laws 2002, LB 876, § 75; Laws 2003, LB 146, § 5. Effective date August 31, 2003.

44-2841. Medical review panel; members; selection; procedure. (1) The medical review panel shall consist of one attorney admitted to practice law in the State of Nebraska and three physicians who hold unlimited licenses under the laws of this state to practice medicine. The attorney shall act in an advisory capacity and as chairperson of the panel, but shall have no vote.

(2) The medical review panel shall be selected in the following manner:

(a) All physicians engaged in the active practice of medicine in this state, whether in the teaching profession or otherwise, who hold a license to practice medicine shall be available for selection;

(b) Each party to the action shall have the right to select one physician and, upon selection, such physician shall be required to serve. The two physicians thus selected shall select the third physician panelist. If one of the health care providers involved is a hospital, a fourth panelist shall be selected who shall be a hospital administrator selected by the hospital;

(c) When there are multiple plaintiffs or defendants, there shall be only one physician or hospital administrator selected per side. The plaintiff, whether single or multiple, shall have the right to select one physician and the defendant, whether single or multiple, shall have the right to select one physician;

(d) A panelist so selected shall serve, except that for good cause shown he or she may be excused. To show good cause for relief from serving, the panelist shall be required to serve an affidavit upon a judge of a court having jurisdiction over the claim when filed. The affidavit shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The court may excuse the proposed panelist from serving;

(e) Within twenty days after receipt of notification of a proposed panelist by the plaintiff, the defendants shall select a proposed panelist and advise the plaintiff or his or her attorney;

(f) Within twenty days of receipt of notice of any selection, written challenge without cause may be made to the panel member. Upon challenge, a party shall select another panelist. If multiple plaintiffs or defendants are unable to agree on a physician panelist or if two such challenges are made and submitted, the judge shall submit a list consisting of three qualified panelists and each side shall strike one and the remaining member shall serve in place of the challenged panelist designated by the party; and

(g) The parties may agree on the attorney member of the board or, if no agreement can be reached, then five proposed attorney members shall be designated by the judge having jurisdiction of the cause. The parties shall then each strike two names alternately with the claimant striking first until both sides have stricken two names and the remaining name shall be the attorney member of the panel.

(3) If the members of the medical review panel have not been selected within one hundred twenty days following filing of the complaint required by section 44-2840, the court shall have authority to select members of the panel and to set a specific date for the hearing.

Source: Laws 1976, LB 434, § 41; Laws 1984, LB 692, § 17; Laws 2002, LB 876, § 76. Operative date January 1, 2003.

44-2842. Medical review panel; evidence considered; depositions; chairperson; duties. (1) The evidence to be considered by the medical review panel shall be promptly submitted by the respective parties in written form only. If any party to the proceedings fails to submit his or her evidence within a reasonable time after notice from the panel requesting such evidence, the panel may proceed to decide the matter on the evidence previously submitted. The determination of

reasonable time shall be made by the panel. The evidence submitted may consist of medical charts, X-rays, laboratory test results, excerpts of treatises, depositions of witnesses including parties, and any other form of evidence allowable by the medical review panel.

(2) Depositions of parties and witnesses may be taken prior to the convening of the panel and prior to the commencement of the action, but in such event the attorney for the medical care provider shall be furnished with a copy of the complaint which the claimant proposes to file at least ten days before any deposition is taken. The patient shall have the right to request and receive all medical and hospital records relating to his or her case which would be admissible in evidence in a court of law. The chairperson of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel. A copy of the evidence shall be sent to each member of the panel.

(3) Either party, after submission of all evidence and upon ten days' notice to the other side, shall have the right to convene the panel at a time and place agreeable to the members of the panel. At such time either party shall have the right to present argument concerning any matters relevant to issues to be decided by the panel before the issuance of its report. The chairperson of the panel shall preside at all meetings, which meetings shall be informal.

(4) If the members of the medical review panel have not convened within six months of the initiation of the proceeding, the judge may terminate the proceeding at the request of either party.

Source: Laws 1976, LB 434, § 42; Laws 1984, LB 692, § 18; Laws 2002, LB 876, § 77; Laws 2003, LB 146, § 6.
Effective date August 31, 2003.

44-2843. Medical review panel; access to information; written opinion; issuance; basis for. (1) The panel shall have the right and duty to request all necessary information. The panel may consult with medical authorities and may examine reports of such health care providers as may be necessary to fully inform itself regarding the issue to be decided. Both parties shall have full access to any material submitted to the panel.

(2) The panel shall have the sole duty to express its expert opinion in writing to each of the parties as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care as charged in the complaint and as to the issue of damages proximately caused by failure to act in accordance with such standards. Any issue relating to informed consent shall be considered as a charge of failure to act within the appropriate standard of care.

(3) After reviewing all evidence and, unless waived, after argument by counsel representing either party, the panel shall, within thirty days, render one or more of the following expert opinions which shall be in writing and mailed to each of the parties:

(a) The evidence supports the conclusion that the defendant failed to comply with the appropriate standard of care as charged in the complaint in specified particulars;

(b) The evidence supports the conclusion that the defendant involved met the applicable standard of care required under the circumstances; or

(c) There is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court or jury in specified particulars.

(4) No dollar amounts or percentages of disability shall be provided by the panel. A majority vote of the voting members shall control action by the panel. The report of the panel shall be signed only by the chairman who shall certify that the report reflects the opinion of a majority of the voting members. If requested, a minority report shall be provided to any party.

Source: Laws 1976, LB 434, §43.

44-2844. Request for review of a claim; filed; toll statute of limitations; panel report; admissible as evidence; panelist; immunity. (1) The filing of the request for review of a claim shall toll the applicable statute of limitations for a period of ninety days following the issuance of the opinion by the medical review panel. The request for review of a claim shall be deemed filed when copy of the request together with a copy of the proposed complaint is delivered or mailed by registered or certified mail to the director, who shall immediately forward a copy to each health care provider named as a defendant at his last and usual place of residence or his office.

(2) The report or any minority report of the medical review panel shall be admissible as evidence in any action subsequently brought by the claimant in a court of law, but such report shall not be conclusive and either party shall have the right to call any member of the medical review panel as a witness. If called, the witness shall be required to appear and testify.

(3) A panelist shall have absolute immunity from civil liability for all communications, findings, opinions and conclusions made in the course and scope of duties prescribed by sections 44-2801 to 44-2855.

Source: Laws 1976, LB 434, §44.

44-2845. Medical review panel; members; compensation; expert witness fee. Each member of the medical review panel shall be paid fifty dollars per day for all work performed as a member of the panel, exclusive of time and services involved if called as a witness to testify in court and reasonable expenses incurred. Fees of the panel, including expenses, shall be paid equally by each side. If a panel member is called as an expert witness at the trial, the panel member shall be paid the customary expert witness fee.

Source: Laws 1976, LB 434, § 45; Laws 2002, LB 1139, § 23. Operative date July 20, 2002.

44-2846. Proceedings before panel; confidential; exception; waiver of privileges; when; witnesses; rights. (1)

Except for the introduction into evidence of the report of the panel, all proceedings before the medical review panel, all actions taken by any party or his counsel in preparation for such proceedings, and the submission of any matter to the medical review panel shall be handled on a confidential basis. Such hearing may not be conducted as a public hearing and the proceedings before the panel shall not be matters of public record.

(2) Initiation of proceedings before a medical review panel by a patient or his representative shall constitute waiver of any privilege or rights conferred by Chapter 27, article 5, as to any hospital records or testimony or records of any physician or surgeon who is attending or has attended such patient for physical or mental conditions or injuries or conditions involved in such proceeding to the same extent and with like effect as provided in Chapter 27, article 5. Any witness providing information or facts or opinions to the medical review panel shall be entitled to the immunities and protection provided to witnesses generally in court proceedings.

Source: Laws 1976, LB 434, §46.

44-2847. Medical review panel; not to consider disputed questions of law; adviser to panel. (1) Medical review panels shall be concerned only with the determination of the questions set forth in section 44-2843. Such panels shall not consider or report on disputed questions of law.

(2) To provide for uniformity of procedure, the Director of Regulation and Licensure may appoint a doctor of medicine from the members of the Board of Medicine and Surgery who may sit with each panel as an observer and as an adviser on procedure but without a vote.

Source: Laws 1976, LB 434, § 47; Laws 1996, LB 1044, § 242; Laws 1999, LB 828, § 5; Laws 2000, LB 1115, § 4. Effective date April 14, 2000.

44-2848 to 44-2853. Repealed. Laws 1994, LB 1223, §135.

STATUTES PERTAINING TO THE UNIVERSITY OF NEBRASKA

85-179.01. College of Medicine; physicians' assistants and associates; program for education and training; establish. Subject to statutory authorization and approval by the Coordinating Commission for Postsecondary Education pursuant to sections 85-1413 and 85-1414, the University of Nebraska through its College of Medicine may establish, develop, implement, and from time to time amend, change, and modify a general plan or program for the education and training of physicians' assistants and physicians' associates and to accomplish such purpose may:

(1) Establish a separate curriculum to be supervised and carried out by the faculty of the College of Medicine;

(2) Employ such additional faculty members and otherwise procure and contract for such professional and technical assistance as may be necessary or advisable;

(3) Acquire by purchase, lease, or gift such personal property as may be required or useful in connection with such program and the implementation thereof; and

(4) Cooperate and contract with other governmental agencies and subdivisions of government, both state and federal, and funding organizations.

Source: Laws 1972, LB 985, §1; Laws 1991, LB 663, §69. Operative date January 1, 1992.

85-179.02. College of Medicine; physicians' assistant or associate, defined. For purposes of sections 85-179.01 to 85-179.03, unless the context otherwise requires, physicians' assistant or physicians' associate shall mean a person who is qualified by training and experience to act as an assistant to, or an associate of, a licensed physician.

Source: Laws 1972, LB 985, §2.

85-179.03. College of Medicine; physicians' assistants or associates; Board of Regents; powers; authority. The power and authority granted by sections 85-179.01 to 85-179.03 may be exercised in whole or in part and from time to time as the Board of Regents of the University of Nebraska may in its discretion determine.

Source: Laws 1972, LB 985, §3.

85-179.04 to 85-179.18. Transferred to sections 71-1,107.15 to 71-1,107.29.