

LEGISLATIVE BILL 257

Approved by the Governor May 20, 2025

Introduced by Quick, 35; Conrad, 46.

A BILL FOR AN ACT relating to occupational credentials; to amend sections 38-2501, 38-2503, 38-2506, 38-2507, 38-2510, 38-2511, 38-2512, 38-2513, 38-2514, 38-2520, 38-2526, 38-2527, 38-2530, 38-2531, and 71-1913, Reissue Revised Statutes of Nebraska, and sections 38-2125, 38-2130, 38-2516, 38-2517, 38-2518, 71-1911.03, and 71-1912, Revised Statutes Cumulative Supplement, 2024; to provide for credentials for marriage and family therapists based on licensure in another jurisdiction; to change licensure and scope of practice provisions for occupational therapy; to change and provide requirements for licensees and inspectors under the Child Care Licensing Act relating to liability insurance; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 38-2125, Revised Statutes Cumulative Supplement, 2024, is amended to read:

38-2125 (1) Except as otherwise provided in subsection (3) of this section, the The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to an individual who:

(a) 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

(b) 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.

(2) The department may issue a license based on a privilege to practice in Nebraska under the Licensed Professional Counselors Interstate Compact as provided in section 5 of such compact.

(3) The department, with the recommendation of the board, shall, based on licensure in another jurisdiction, issue a mental health practitioner license or an independent mental health practitioner license to a marriage and family therapist who:

(a) Has a valid, independent, and unrestricted license as a marriage and family therapist in another state or territory that is in good standing with such state or territory;

(b) Completes an application and pays all applicable fees; and

(c) Has passed the Nebraska jurisprudence examination.

(4) ~~(3)~~ An applicant for a license who is a military spouse may apply for a temporary license as provided in section 38-129.01.

Sec. 2. Section 38-2130, Revised Statutes Cumulative Supplement, 2024, is amended to read:

38-2130 (1) The department, with the recommendation of the board, may issue a certificate based on licensure in another jurisdiction to represent oneself as a certified marriage and family therapist, a certified professional counselor, a social worker, or a certified art therapist to an individual who meets the requirements of the Mental Health Practice Act relating to marriage and family therapy, professional counseling, social work, or art therapy, as appropriate, or substantially equivalent requirements as determined by the department, with the recommendation of the board.

(2) The department, with the recommendation of the board, shall issue a certificate to a marriage and family therapist based on licensure in another jurisdiction to an individual who:

(a) Has a valid, independent, and unrestricted license as a marriage and family therapist in another state or territory that is in good standing with such state or territory;

(b) Completes an application and pays all applicable fees; and

(c) Has passed the Nebraska jurisprudence examination.

(3) An applicant for a certificate who is a military spouse may apply for a temporary certificate as provided in section 38-129.01.

Sec. 3. Section 38-2501, Reissue Revised Statutes of Nebraska, is amended to read:

38-2501 Sections 38-2501 to 38-2531 and sections 20 to 23 of this act shall be known and may be cited as the Occupational Therapy Practice Act.

Sec. 4. Section 38-2503, Reissue Revised Statutes of Nebraska, is amended to read:

38-2503 For purposes of the Occupational Therapy Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-2504 to 38-2514 and sections 20 to 23 of this act apply.

Sec. 5. Section 38-2506, Reissue Revised Statutes of Nebraska, is amended to read:

38-2506 Deep thermal agent modalities means therapeutic ultrasound, and phonophoresis, and other commercially available technologies. Deep thermal agent modalities does not include the use of diathermy or lasers.

Sec. 6. Section 38-2507, Reissue Revised Statutes of Nebraska, is amended to read:

38-2507 Electrotherapeutic agent modalities means the use of electrotherapeutic currents and waveforms to (1) facilitate physiologic changes in tissues to increase circulation, facilitate tissue healing, and modulate pain, including, but not limited to, high-voltage galvanic stimulation for tissue and wound repair and high-voltage pulsed current, and (2) facilitate neuromuscular or sensory activity to improve muscle strength, reeducate muscle function, or modulate pain response, including, but not limited to, neuromuscular electrical stimulation, functional electrical stimulation, transcutaneous electrical nerve stimulation, and interferential current. neuromuscular electrical stimulation, transcutaneous electrical nerve stimulation, and iontophoresis. Electrotherapeutic agent modalities does not include the use of ultraviolet light.

Sec. 7. Section 38-2510, Reissue Revised Statutes of Nebraska, is amended to read:

38-2510 (1) Practice of occupational therapy means the therapeutic use of everyday life occupations with persons, groups, or populations to support occupational performance and participation. Occupational therapy practice includes clinical reasoning and professional judgment to evaluate, analyze, and diagnose occupational challenges and provide occupation-based interventions. Occupational therapy services include habilitation, rehabilitation, and the promotion of physical and mental health and wellness for clients with all levels of ability-related needs. These services are provided to a client who has, or is at risk for, developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Through the provision of skilled services and engagement in everyday activities, occupational therapy promotes physical and mental health and well-being by supporting occupational performance in a person with, or at risk of experiencing, a range of developmental, physical, and mental health disorders.

(2) The practice of occupational therapy includes the following components:

(a) Evaluation of factors affecting activities of daily living, instrumental activities of daily living, health management, rest and sleep, education, work, play, leisure, and social participation, and includes environmental and personal factors and occupational and activity demands that affect performance;

(b) Performance patterns, including habits, routines, roles, and rituals;

(c) Performance skills, including motor skills, process skills, and social interaction skills;

(d) Client factors, including body functions and structures, values, and spirituality;

(e) Methods or approaches to identify and select intervention, including (i) establishment, remediation, or restoration of a skill or ability that has not yet developed, is impaired, or is in decline, (ii) compensation, modification, or adaptation of occupations, activities, and contexts to improve or enhance performance, (iii) maintenance of capabilities to prevent decline in performance of everyday life occupations, (iv) health promotion and wellness to enable or enhance performance of everyday life activities and quality of life, and (v) prevention of occurrence or emergence of barriers to performance and participation, including injury and disability prevention; and

(f) Interventions and procedures to promote or enhance safety and performance in activities of daily living, independent activities of daily living, health management, rest and sleep, education, work, play, leisure, and social participation, and includes:

(i) Therapeutic use of occupations and activities;

(ii) Training in self-care, self-management, health management, home management, community and work integration, school activities, and work performance;

(iii) Identification, development, remediation, or compensation of physical, neuromusculoskeletal, sensory-perceptual, emotional regulation, visual, and mental and cognitive functions, pain tolerance and management, praxis, developmental skills, and behavioral skills;

(iv) Education and training of persons, including family members, caregivers, groups, and populations;

(v) Care coordination, case management, and transition services;

(vi) Consultation services to persons, groups, populations, programs, organizations, and communities;

(vii) Virtual interventions;

(viii) Modification of contexts and adaptation of processes, including the application of ergonomic principles;

(ix) Assessment, design, fabrication, application, fitting, and training in seating and positioning, assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices;

(x) Assessment, recommendation, and training in techniques to enhance functional mobility, including fitting and management of wheelchairs and other mobility devices;

(xi) Exercises, including tasks and methods to increase motion, strength, and endurance for occupational participation;

(xii) Remediation of, and compensation for, visual deficits, including low vision rehabilitation;

(xiii) Driver rehabilitation and community mobility;

(xiv) Management of feeding, eating, and swallowing to enable eating and feeding performance;

(xv) Application of physical agent, instrument-assisted, and mechanical modalities and the use of a range of specific therapeutic procedures and techniques to enhance sensory, motor, perceptual, and cognitive processing, and manual therapy techniques to enhance performance skills;

(xvi) Facilitating the occupational participation of persons, groups, or populations through modification of contexts and adaptation of processes;

(xvii) Efforts directed toward promoting occupational justice and empowering clients to seek and obtain resources to fully participate in everyday life occupations;

(xviii) Group interventions; and

(xix) Addressing wound care.

(1) Occupational therapy means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independent function, prevent further disability, and achieve and maintain health and productivity.

(2) Occupational therapy encompasses evaluation, treatment, and consultation and may include (a) remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes, (b) adaptation of task, process, or the environment, or the teaching of compensatory techniques, in order to enhance performance, (c) disability prevention methods and techniques which facilitate the development or safe application of performance skills, and (d) health promotion strategies and practices which enhance performance abilities.

(3) Occupational therapy does not include the use of joint manipulation, grade five mobilization or manipulation, thrust joint manipulation, high-velocity or low-amplitude thrust, or any other procedure intended to result in joint cavitation. Joint manipulation commences where grades one through four mobilization ends.

Sec. 8. Section 38-2511, Reissue Revised Statutes of Nebraska, is amended to read:

38-2511 Occupational therapy aide means a person who is not licensed by the board and who provides supportive services to occupational therapists and occupational therapy assistants and functions only under the guidance, responsibility, and supervision of an occupational therapist or an occupational therapy assistant. An aide shall not provide occupational therapy services and shall demonstrate competence before performing assigned and delegated client-related and non-client-related tasks. An aide includes a rehabilitation aide, a rehabilitation technician, and other designations of nonlicensed, supportive personnel.

Occupational therapy aide means a person who is not licensed under the Occupational Therapy Practice Act and who provides supportive services to occupational therapists and occupational therapy assistants.

Sec. 9. Section 38-2512, Reissue Revised Statutes of Nebraska, is amended to read:

38-2512 Occupational therapy assistant means a person licensed to assist in the practice of occupational therapy under the Occupational Therapy Practice Act and who works under the appropriate supervision of, and in collaboration with, an occupational therapist. holding a current license to assist in the practice of occupational therapy.

Sec. 10. Section 38-2513, Reissue Revised Statutes of Nebraska, is amended to read:

38-2513 Physical agent and instrument-assisted modalities means modalities that produce a biophysiological response through the use of water, temperature, sound, electricity, or mechanical devices.

Sec. 11. Section 38-2514, Reissue Revised Statutes of Nebraska, is amended to read:

38-2514 Superficial thermal agent modalities means hydrotherapy, whirlpool, cryotherapy, fluidotherapy, hot packs, paraffin, water, infrared, and other commercially available superficial heating and cooling technologies. hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling technologies.

Sec. 12. Section 38-2516, Revised Statutes Cumulative Supplement, 2024, is amended to read:

38-2516 (1) No person may represent himself or herself to be a licensed occupational therapist or occupational therapy assistant unless the person is licensed in accordance with the Occupational Therapy Practice Act or has a compact privilege to practice in accordance with the Occupational Therapy Practice Interstate Compact.

(2) Nothing in the Occupational Therapy Practice Act shall be construed to prevent:

(a) Any person licensed in this state pursuant to the Uniform Credentialing Act from engaging in the profession or occupation for which he or she is licensed;

(b) The activities and services of any person employed as an occupational therapist or occupational therapy assistant who serves in the armed forces of the United States or the United States Public Health Service or who is employed by the United States Department of Veterans Affairs or other federal agencies, if their practice is limited to that service or employment;

(c) The activities and services of any person pursuing an accredited course of study leading to a degree or certificate in occupational therapy if

such activities and services constitute a part of a supervised course of study and if such a person is designated by a title which clearly indicates his or her status as a student or trainee;

(d) The activities and services of any person fulfilling the supervised fieldwork experience requirements of ~~section sections 38-2518 and 38-2519~~ if such activities and services constitute a part of the experience necessary to meet the requirements of such ~~section sections~~; or

(e) ~~A qualified member~~ Qualified members of another profession other professions or occupation occupations, including, but not limited to, a recreation specialist specialists or therapist therapists, a special education teacher teachers, an independent living specialist specialists, a work adjustment trainer trainers, a caseworker, or a person caseworkers, and persons pursuing a course courses of study leading to a degree or certification in such fields, from doing work similar to occupational therapy which is consistent with the member's ~~their~~ training if such member ~~does they do~~ not represent ~~himself or herself themselves~~ by any title or description to be an occupational therapist or occupational therapy assistant therapists.

Sec. 13. Section 38-2517, Revised Statutes Cumulative Supplement, 2024, is amended to read:

38-2517 (1) ~~A~~ Any person who has applied to take the examination under section 38-2518 or 38-2519 and who has completed the education and experience requirements of the Occupational Therapy Practice Act may be granted a temporary license to practice as an occupational therapist or an occupational therapy assistant. A temporary license shall allow the person to practice only in association with an a licensed occupational therapist, and shall be valid until the date on which the results of the next licensure examination are available to the department.

(2) A temporary license expires the earlier of: (a) The date the person holding the temporary license is issued a permanent license; (b) the date the board denies a person's license application; (c) one hundred eighty days after the date the temporary license is issued; or (d) the date a person is notified of a failure of the licensure examination. The temporary license shall not be renewed if the applicant has failed the examination. The temporary license may be extended by the department, with the recommendation of the board.

(3) In no case may a temporary license be extended for a period greater than beyond one year after the date of issuance.

(4) ~~(2)~~ This section does not apply to a temporary license issued as provided in section 38-129.01.

Sec. 14. Section 38-2518, Revised Statutes Cumulative Supplement, 2024, 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 the applicant ~~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 accrediting body medical association or nationally recognized occupational therapy association; and

~~(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~~

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

(2) ~~If 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 body agency as determined by the board;

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

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

(3) 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. 15. Section 38-2520, Reissue Revised Statutes of Nebraska, is amended to read:

38-2520 ~~(1)~~ Each applicant for licensure under pursuant to the Occupational Therapy Practice Act shall take an be examined by a written examination which tests the applicant's his or her knowledge of the basic and clinical sciences relating to occupational therapy and occupational therapy theory and practice including, but not limited to, professional skills and judgment in the utilization of occupational therapy techniques and methods and such other subjects as identified by the body administering the national licensure examination. Each applicant shall follow the rules as outlined by such body and meet the minimum requirements for the examination. Results of the examination shall be sent to the board for verification of entry-level competency. as the board may deem useful to determine the applicant's fitness to practice. The board shall approve the examination and establish standards for acceptable performance. The board may choose a nationally standardized occupational therapist and occupational therapy assistant entry-level examination.

~~(2) Applicants for licensure shall be examined at a time and place and~~

~~under such supervision as the board may determine.~~

Sec. 16. Section 38-2526, Reissue Revised Statutes of Nebraska, is amended to read:

38-2526 (1) An occupational therapist may perform any services identified in section 38-2510 for which the occupational therapist is competent to perform based on the occupational therapist's entry-level training or continued professional development. An occupational therapist may pursue specialization, training, or professional development in a specific modality, procedure, or technique. It is the responsibility of the practitioner to be proficient and document proficiency in the specific modality of practice.

(2) An occupational therapist is qualified to apply physical agent and instrument-assisted modalities pursuant to subsection (1) of section 38-2530.

(3) An occupational therapist may complete insertion and removal of cannulas for oxygen and adjustment of the rate of flow based on a physician order.

(4) An occupational therapist shall not independently diagnose a medical condition or disease.

~~An occupational therapist may perform the following services:~~

~~(1) Evaluate, develop, improve, sustain, or restore skills in activities of daily living, work activities, or productive activities, including instrumental activities of daily living, and play and leisure activities;~~

~~(2) Evaluate, develop, remediate, or restore sensorimotor, cognitive, or psychosocial components of performance;~~

~~(3) Design, fabricate, apply, or train in the use of assistive technology or orthotic devices and train in the use of prosthetic devices;~~

~~(4) Adapt environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;~~

~~(5) If certified pursuant to section 38-2530, apply physical agent modalities as an adjunct to or in preparation for engagement in occupations when applied by a practitioner who has documented evidence of possessing the theoretical background and technical skills for safe and competent use;~~

~~(6) Evaluate and provide intervention in collaboration with the client, family, caregiver, or others;~~

~~(7) Educate the client, family, caregiver, or others in carrying out appropriate nonskilled interventions; and~~

~~(8) Consult with groups, programs, organizations, or communities to provide population-based services.~~

Sec. 17. Section 38-2527, Reissue Revised Statutes of Nebraska, is amended to read:

38-2527 An occupational therapy assistant may deliver occupational therapy services enumerated in section 38-2510 38-2526 in collaboration with and under the supervision of an occupational therapist.

Sec. 18. Section 38-2530, Reissue Revised Statutes of Nebraska, is amended to read:

38-2530 (1) In order to apply physical agent modalities, an occupational therapist shall be certified pursuant to this section.

(1)(a) If an occupational therapist's occupational therapy educational program does not include education in superficial thermal, deep thermal, electrotherapeutic, and mechanical devices or the occupational therapist is not certified by the Hand Therapy Certification Commission or other equivalent body recognized by the board, the occupational therapist shall request approval from the board to practice physical agent and instrument-assisted modalities.

(b) An occupational therapist may perform dry needling only in accordance with the level of education and training successfully completed. Education and training shall be approved by the board and include clinical instruction and application on the performance of dry needling.

(c) An occupational therapist may not use diathermy.

(2) The department shall issue a certificate to an occupational therapist to administer a physical agent and instrument-assisted modality if the occupational therapist:

(a) Has successfully completed a training course approved by the board and passed an examination approved by the board on the physical agent and instrument-assisted modality;

(b) Is certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent body recognized by the board;

(c) Has a minimum of five years of experience in the use of physical agent and instrument-assisted modalities and has passed an examination approved by the board on physical agent and instrument-assisted modalities; or

(d) Has completed education during a basic educational program which included demonstration of competencies for application of physical agent and instrument-assisted modalities.

(3) The department shall issue a certificate for an occupational therapist to utilize dry needling if the occupational therapist has successfully completed a board-approved training course to administer dry needling.

(4) An occupational therapist shall not delegate evaluation, reevaluation, treatment planning, and treatment goals for physical agent and instrument-assisted modalities to an occupational therapy assistant.

(5)(a) An occupational therapy assistant may administer a physical agent modality if the occupational therapy assistant (i) has successfully completed a training course approved by the board and passed an examination approved by the board on the physical agent modality and (ii) is appropriately supervised by an occupational therapist who is approved to administer physical agent modalities.

(b) An occupational therapy assistant shall not complete evaluation,

reevaluation, treatment planning, or treatment goal setting related to physical agent modality use.

(c) An occupational therapy assistant may not use the instrument-assisted modality of dry needling or diathermy.

~~The department shall issue a certificate to an occupational therapist to administer a physical agent modality if the occupational therapist:~~

~~(a) Has successfully completed a training course approved by the board and passed an examination approved by the board on the physical agent modality;~~

~~(b) Is certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the board;~~

~~(c) Has a minimum of five years of experience in the use of the physical agent modality and has passed an examination approved by the board on the physical agent modality; or~~

~~(d) Has completed education during a basic educational program which included demonstration of competencies for application of the physical agent modality.~~

(6) (2) The department shall issue a certificate to authorize an occupational therapy assistant to set up and implement treatment using superficial thermal agent modalities, deep thermal agent modalities, electrotherapeutic modalities, and mechanical devices if the occupational therapy assistant has successfully completed a training course approved by the board and passed an examination approved by the board. Such set up and implementation shall only be done under the onsite supervision of an occupational therapist certified to administer such modalities superficial thermal agent modalities.

~~(3) An occupational therapist shall not delegate evaluation, reevaluation, treatment planning, and treatment goals for physical agent modalities to an occupational therapy assistant.~~

Sec. 19. Section 38-2531, Reissue Revised Statutes of Nebraska, is amended to read:

38-2531 (1) The board shall adopt and promulgate rules and regulations regarding role delineation for occupational therapy assistants and continuing competency requirements. Continuing education is sufficient to meet continuing competency requirements. Such 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.

(2) The board may adopt and promulgate rules and regulations governing the training courses for an occupational therapist to be certified to administer a physical agent and instrument-assisted modalities modality. The board may adopt and promulgate rules and regulations governing the training course for an occupational therapy assistant to be certified to set up and implement superficial thermal agent modalities. In adopting such rules and regulations, the board shall give consideration to the levels of training and experience which are required, in the opinion of the board, to protect the public health, safety, and welfare and to insure, to the greatest extent possible, the efficient, adequate, and safe practice of occupational therapy. Such rules and regulations shall include the approval of examinations and the passing score for such examinations for certification.

Sec. 20. Electromagnetic modality means the use of electromagnetic waves, including radio waves, microwaves, and light waves, to transport electrical and magnetic energy through space to effect changes in body structures.

Sec. 21. Instrument-assisted modality means the therapeutic use of an instrument or tool that is manually applied by a trained practitioner to target specific tissues including skin, fascia, and other connective tissues or muscle.

Sec. 22. Mechanical modality means the therapeutic use of a mechanical device to apply force, such as compression, distraction, vibration, or controlled mobilization, to modify biomechanical properties and functions of tissues.

Sec. 23. Supervision means a collaborative process for responsible, periodic review and inspection of all aspects of occupational therapy services where (1) the occupational therapist is responsible for occupational therapy services provided by an occupational therapy assistant or an occupational therapy aide, and (2) an occupational therapy assistant is responsible for the occupational therapy services provided by the assistant. The goal of supervision is to ensure the safe and effective delivery of occupational therapy services.

Sec. 24. Section 71-1911.03, Revised Statutes Cumulative Supplement, 2024, is amended to read:

71-1911.03 (1) An applicant for a license under the Child Care Licensing Act shall provide to the department written proof of liability insurance coverage for the hours such applicant is operating and a child is in the applicant's care of at least one hundred thousand dollars per occurrence prior to issuance of the license. A licensee subject to the Child Care Licensing Act on July 1, 2014, shall obtain such liability insurance coverage and provide written proof to the department within thirty days after July 1, 2014.

(2) A licensee shall continue to maintain the required level of liability insurance for any time period during which a child is in the care of such licensee. Failure by a licensee to maintain the required level of liability insurance coverage shall be deemed noncompliance with the Child Care Licensing Act. If the licensee is the State of Nebraska or a political subdivision, the licensee may utilize a risk retention group or a risk management pool for

purposes of providing such liability insurance coverage or may self-insure all or part of such coverage.

Sec. 25. Section 71-1912, Revised Statutes Cumulative Supplement, 2024, is amended to read:

71-1912 (1) Before issuance of a license, the department shall investigate or cause an investigation to be made, when it deems necessary, to determine if the applicant or person in charge of the program meets or is capable of meeting the physical well-being, safety, and protection standards and the other rules and regulations of the department adopted and promulgated under the Child Care Licensing Act. The department may investigate the character of applicants and licensees, any member of the applicant's or licensee's household, and the staff and employees of programs. The department may at any time inspect or cause an inspection to be made of any place where a program is operating to determine if such program is being properly conducted.

(2) All inspections by the department shall be unannounced except for initial licensure visits and consultation visits. Initial licensure visits are announced visits necessary for a provisional license to be issued to a family child care home I, family child care home II, child care center, or school-age-only or preschool program. Consultation visits are announced visits made at the request of a licensee for the purpose of consulting with a department specialist on ways of improving the program.

(3) An unannounced inspection of any place where a program is operating shall be conducted by the department or the city, village, or county pursuant to subsection (2) of section 71-1914 at least annually for a program licensed to provide child care for fewer than thirty children and at least twice every year for a program licensed to provide child care for thirty or more children. At each unannounced inspection, the inspector shall request from the licensee, and verify, current proof of required liability insurance. If the licensee is unable to provide current proof of liability insurance or has let the required coverage lapse, the department shall notify the licensee that proof of insurance shall be provided to the department within three business days. If such proof of insurance is not provided to the department within three business days, the licensee's license shall be suspended. Licensure shall be restored upon the department's receipt and verification of current proof of the required liability insurance as provided in section 71-1911.03.

(4) Whenever an inspection is made, the findings shall be recorded in a report designated by the department. The public shall have access to the results of these inspections upon a written or oral request to the department. The request must include the name and address of the program. Additional unannounced inspections shall be performed as often as is necessary for the efficient and effective enforcement of the Child Care Licensing Act.

(5)(a) A person applying for a license as a child care provider or a licensed child care provider under the Child Care Licensing Act shall submit a request for a national criminal history record information check for each child care staff member, including a prospective child care staff member of the child care provider, at the applicant's or licensee's expense, as set forth in this section.

(b) A prospective child care staff member shall submit to a national criminal history record information check (i) prior to employment, except as otherwise permitted under 45 C.F.R. 98.43, as such regulation existed on January 1, 2019, or (ii) prior to residing in a family child care home.

(c) The department shall provide documentation of national criminal history record information checks which proves eligibility for employment. Such documentation shall be made available to each child care staff member or prospective child care staff member by the applicant or licensee for at least one hundred eighty days after the last day of employment or date the documentation was provided by the department, whichever is later.

(d) A child care staff member shall be required to undergo a national criminal history record information check not less than once during each five-year period. A child care staff member shall submit a complete set of his or her fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall transmit a copy of the child care staff member's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The national criminal history record information check shall include information concerning child care staff members from federal repositories of such information and repositories of such information in other states, if authorized by federal law for use by the Nebraska State Patrol. The Nebraska State Patrol shall issue a report to the department that includes the information collected from the national criminal history record information check concerning child care staff members. The department shall seek federal funds, if available, to assist child care providers and child care staff members with the costs of the fingerprinting and national criminal history record information check. If the department does not receive sufficient federal funds to assist child care providers and staff members with such costs, then the child care staff member being screened, applicant for a license, or licensee shall pay the actual cost of the fingerprinting and national criminal history record information check, except that the department may pay all or part of the cost if funding becomes available. The department and the Nebraska State Patrol may adopt and promulgate rules and regulations concerning the costs associated with the fingerprinting and the national criminal history record information check. The department may adopt and promulgate rules and regulations implementing national criminal history record information check requirements for child care providers and child care staff members.

(e) A child care staff member shall also submit to the following background checks at his or her expense not less than once during each five-year period:

(i) A search of the National Crime Information Center's National Sex Offender Registry; and

(ii) A search of the following registries, repositories, or databases in the state where the child care provider is located or where the child care staff member resides and each state where the child care provider was located or where the child care staff member resided during the preceding five years:

(A) State criminal registries or repositories;

(B) State sex offender registries or repositories; and

(C) State-based child abuse and neglect registries and databases.

(f) Background checks shall be portable between child care providers.

(g) Any individual shall be ineligible for employment by a child care provider if such individual:

(i) Refuses to consent to the national criminal history record information check or a background check described in this subsection;

(ii) Knowingly makes a materially false statement in connection with the national criminal history record information check or a background check described in this subsection;

(iii) Is registered, or required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry; or

(iv) Has been convicted of a crime of violence, a crime of moral turpitude, or a crime of dishonesty.

(h) The department may adopt and promulgate rules and regulations for purposes of this section.

(i) A child care provider shall be ineligible for a license under the Child Care Licensing Act and shall be ineligible to participate in the child care subsidy program if the provider employs a child care staff member who is ineligible for employment under subdivisions (g) or (h) of this subsection.

(j) National criminal history record information and information from background checks described in this subsection subject to state or federal confidentiality requirements may only be used for purposes of granting a child care license or approving a child care provider for participation in the child care subsidy program.

(k) For purposes of this subsection:

(i) Child care provider means a child care program required to be licensed under the Child Care Licensing Act; and

(ii) Child care staff member means an individual who is not related to all of the children for whom child care services are provided and:

(A) Who is employed by a child care provider for compensation, including contract employees or self-employed individuals;

(B) Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or

(C) Who is residing in a family child care home and who is eighteen years of age or older.

Sec. 26. 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) At each investigation, the inspector shall request from the licensee, and verify, current proof of liability insurance pursuant to section 71-1911.03.

(4) (3) This section does not apply to school-age child care programs which are licensed pursuant to section 71-1917.

Sec. 27. Original sections 38-2501, 38-2503, 38-2506, 38-2507, 38-2510, 38-2511, 38-2512, 38-2513, 38-2514, 38-2520, 38-2526, 38-2527, 38-2530, 38-2531, and 71-1913, Reissue Revised Statutes of Nebraska, and sections 38-2125, 38-2130, 38-2516, 38-2517, 38-2518, 71-1911.03, and 71-1912, Revised Statutes Cumulative Supplement, 2024, are repealed.