



NOTICE OF VIRTUAL MEETING and AGENDA
Board of Mental Health Practice

This meeting will be held via virtual conferencing. The public is welcome to attend any Open Session discussion in the Lower Level, Goldenrod Room. This meeting will also be available to the public to participate by WEBEX using this link: <https://sonvideo.webex.com/sonvideo/j.php?MTID=m78b8306229e8c349802ccddd445d57ad>

or call in information is 1-408-418-9388 using meeting number of 2480 660 5851

| AGENDA revised * | Posted:12.18.2023, 12.20.2023 |
|---|---|
| <p>Date: Friday *January 5, 2024 9:00 a.m.</p> <p>Location: State Office Building 301 Centennial Mall South (14th and M Street) Lower Level Room B/Morrill Lincoln, Nebraska</p> <p>For Information Contact: Carrie Oldehoft 402-471-4918 or dhhs.licensure2117@nebraska.gov</p> | <ol style="list-style-type: none"> 1. ROLL CALL AND CALL MEETING TO ORDER <u>Announcement:</u> There is a current copy of the Open Meetings Act posted on the door to the meeting room and available at the link listed below. 2. ADOPTION OF AGENDA 3. APPROVAL OF MINUTES 4. CLOSED SESSION (approx. 9:30 am) Confidential Information <u>Purpose:</u> To hear discussions of confidential nature, and for the prevention of needless injury to the reputation of the individuals 5. OPEN SESSION (approx. 11:30 am) Application Reviews, Recommendations, and Report Out (mail ballots) 6. Education requirements (172 NAC 94 .007 and 38-2123) 7. FAQ review 8. Public comment 9. UPDATES AND REPORTS: <ul style="list-style-type: none"> • Legislation 2024 • Association and Committee Updates: <ol style="list-style-type: none"> a. AASCB http://www.aascb.org b. Counseling Compact https://counselingcompact.org/ c. AMFTRB http://www.amftrb.org d. ASWB http://www.aswb.org e. Justice Behavioral Health Committee <ul style="list-style-type: none"> • Reports: Disciplinary and Non-Disciplinary Actions, Licensure Statistics, Examination Pass/Fail Report (see agenda for reports) 10. By-laws 11. Annual business Election of Officers, Appointment of Association Representatives, Investigative Consultant, and Interstate Counseling Compact Delegate (must have LIMHP/CPC) 12. ADJOURN (Approx. 2:30 pm) |

Nebraska Open Meetings Act: 84-1407 through 84-1414
<https://ago.nebraska.gov/open-meetings>

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| <p>All items known at the time of distribution of this agenda are listed. A current agenda is available at the Department of Health and Human Services, Division of Public Health, Licensure Unit and https://dhhs.ne.gov/Licensure/Pages/Agendas-and-Minutes.aspx</p> <p>If auxiliary aids or reasonable accommodations are needed for attendance at a meeting, please call (402) 471-2117 (voice), or for persons with hearing impairments, please call the Nebraska Relay System, 711 TDD, prior to the meeting date. Advance notice of seven days is needed when requesting an interpreter.</p> | 2024 Meeting Dates: Meetings start at 9:00 am | |
| | 1.5.2024 | 7.12.2024 |
| | 3.1.2024 | 9.6.2024 |
| | 5.3.2024 | 11.1.2024 |

Agenda Item 4b

Examinations:

| EXAMINATION STATISTICS SUMMARY REPORT | | | |
|---------------------------------------|---------------------------------|----------------------|--|
| Profession: Mental Health Practice | | Run Date: 12/18/2023 | |
| Date Range: 01/01/2023 to 12/18/2023 | | Page No: Page 1 of 2 | |
| Exam Battery | Exam Name | Result Status | Number of Candidates per Result Status |
| AMFTRB | AMFTRB | Pass | 4 |
| NBCC-NCMHCE | NBCC-NCMHCE | Pass | 15 |
| | NBCC-NCMHCE | Fail | 16 |
| NBCC-NCE | NCE (NBCC) | Pass | 76 |
| | NCE (NBCC) | Fail | 28 |
| ASWB-Clinical | ASWB-Clinical (formerly AASSWB) | Pass | 77 |
| | ASWB-Clinical (formerly AASSWB) | Fail | 55 |
| ASWB-Masters Exam | ASWB Master's Exam | Pass | 1 |
| Jurisprudence Exam | Jurisprudence | Pass | 11 |

Active Licenses:

| Profession | License Statuses: License Types | SUMMARY COUNT OF LICENSES BY STATUS | |
|----------------------------|--|-------------------------------------|-----------------|
| | | Active | Active-Military |
| Mental Health Practitioner | EO 20-27 Prov Independent MHP License | | |
| | EO 20-27 Prov Mental Health Practitioner | | |
| | Independent Mental Health Practitioner | 3,028 | 2 |
| | Marriage & Family Therapist | 134 | |
| | Master Social Worker | 1,259 | 2 |
| | Master Social Worker (CMSW) | 56 | |
| | Mental Health Practitioner | 2,325 | 5 |
| | Non-License (Exam applicant only) | 18 | |
| | Professional Counselor | 1,101 | 1 |
| | Provisional Master Social Worker | 472 | |
| | Provisional Mental Health Practitioner | 1,473 | |
| | Social Worker | 650 | |
| | Supervised Marriage & Family Therapist | | |
| | Temporary Cert Marriage Family Therapist | | |
| | Temporary Mental Health Practitioner | | |
| | Grand Total | 10,516 | 10 |

Disciplinary and Non-Disciplinary Actions:

| COMPLIANCE LISTING REPORT | | | | | | |
|---|------------|-------------------------|----------------|--|----------------------|------------|
| Profession: Mental Health Practice | | | | | Run Date: 12/18/2023 | |
| Action Start Date Range: 01/01/2023 to 12/18/2023 | | | | | Page No: Page 1 of 4 | |
| Licensee Name | License No | License Type | License Status | Disciplinary Action | Action Start | Action End |
| Batten, Amy K | 3981 | Mental Health Practitic | Active | Probation | 03/16/2023 | 03/16/2026 |
| Berry, Cora Simmerman | 393 | Mental Health Practitic | Revocation | Temporary Suspension | 04/07/2023 | 05/17/2023 |
| Berry, Cora Simmerman | 393 | Mental Health Practitic | Revocation | Petition for Disp Action & Temp Susp | 03/31/2023 | 05/17/2023 |
| Berry, Cora Simmerman | 284 | Professional Counselo | Revocation | Temporary Suspension | 04/07/2023 | 05/17/2023 |
| Berry, Cora Simmerman | 284 | Professional Counselo | Revocation | Petition for Disp Action & Temp Susp | 03/31/2023 | 05/17/2023 |
| Bollinger, Reginald R | 2305 | Master Social Worker | Active | Probation | 10/19/2023 | 04/02/2024 |
| Bollinger, Reginald R | 6051 | Mental Health Practitic | Active | Probation | 10/19/2023 | 04/02/2024 |
| Bowlby-Safranek, Aryn Monet | 1233 | Professional Counselo | Active | Nondisciplinary Assurance of Complianc | 09/03/2023 | |
| Bowlby-Safranek, Aryn Monet | 46 | Independent Mental H | Active | Nondisciplinary Assurance of Complianc | 09/03/2023 | |
| Bowlby-Safranek, Aryn Monet | 2200 | Mental Health Practitic | Active | Nondisciplinary Assurance of Complianc | 09/03/2023 | |
| Dambraskas, Joseph John | | Independent Mental H | Denied | Other | 04/26/2023 | |
| Dugan, Michelle Ann | 12656 | Provisional Mental He | Active | Nondisciplinary Assurance of Complianc | 09/23/2023 | |
| Gilreath, Tanesha Shirlon | 12517 | Provisional Mental He | Active | Petition for Disciplinary Action Filed | 08/14/2023 | |
| Gilreath, Tanesha Shirlon | 7589 | Provisional Master So | Active | Petition for Disciplinary Action Filed | 08/14/2023 | |
| Heidzig, Pamela Rae | 5877 | Mental Health Practitic | Suspension | Suspension | 09/23/2023 | |
| Heidzig, Pamela Rae | 5877 | Mental Health Practitic | Suspension | Petition for Disciplinary Action Filed | 09/11/2023 | 09/13/2023 |
| Heusman, Kelsy Ann | 2971 | Social Worker | Revocation | Revocation | 11/22/2023 | |
| Heusman, Kelsy Ann | 2971 | Social Worker | Revocation | Petition for Disciplinary Action Filed | 10/11/2023 | 11/22/2023 |
| Joe, Brian D. | 2287 | Professional Counselo | Revocation | Petition for Disciplinary Action Filed | 08/14/2023 | 08/16/2023 |
| Joe, Brian D. | 2143 | Independent Mental H | Revocation | Petition for Disciplinary Action Filed | 08/14/2023 | 08/16/2023 |
| Joe, Brian D. | 2143 | Independent Mental H | Revocation | Revocation | 08/16/2023 | |
| Joe, Brian D. | 2287 | Professional Counselo | Revocation | Revocation | 08/16/2023 | |
| Joe, Brian D. | 4752 | Mental Health Practitic | Revocation | Revocation | 08/16/2023 | |
| Joe, Brian D. | 4752 | Mental Health Practitic | Revocation | Petition for Disciplinary Action Filed | 08/14/2023 | 08/16/2023 |
| Leach, Michael Lee | 2172 | Mental Health Practitic | Revocation | Revocation | 05/24/2023 | |
| Leach, Michael Lee | 2172 | Mental Health Practitic | Revocation | Petition for Disciplinary Action Filed | 05/17/2023 | 05/24/2023 |
| Leach, Michael Lee | 737 | Independent Mental H | Revocation | Petition for Disciplinary Action Filed | 05/17/2023 | 05/24/2023 |
| Leach, Michael Lee | 1224 | Professional Counselo | Inactive | Revocation | 05/24/2023 | |
| Leach, Michael Lee | 1224 | Professional Counselo | Inactive | Petition for Disciplinary Action Filed | 05/17/2023 | 05/24/2023 |
| Leach, Michael Lee | 737 | Independent Mental H | Revocation | Revocation | 05/24/2023 | |
| Mahon, Vincent | | Independent Mental H | Denied | Other | 06/14/2023 | |
| Mautz, Lauren Mae | 3424 | Social Worker | Active | Probation | 03/03/2023 | 03/03/2025 |
| Myers, Tara Lynne | 12063 | Provisional Mental He | Revocation | Revocation | 01/04/2023 | |
| Prado-Cervantes, Ramon | 12783 | Provisional Mental He | Active | Probation | 10/22/2023 | 04/22/2025 |
| Prado-Cervantes, Ramon | 12783 | Provisional Mental He | Active | Petition for Disciplinary Action Filed | 10/10/2023 | 10/12/2023 |
| Rodriguez, Andrea Lynn | 3855 | Mental Health Practitic | Revocation | Petition for Disciplinary Action Filed | 01/31/2023 | 02/02/2023 |
| Rodriguez, Andrea Lynn | 2997 | Independent Mental H | Revocation | Revocation | 02/02/2023 | |

| | | | | | | |
|------------------------|-------|-------------------------|------------|--|------------|------------|
| Rodriguez, Andrea Lynn | 2997 | Independent Mental H | Revocation | Petition for Disciplinary Action Filed | 01/31/2023 | 02/02/2023 |
| Rodriguez, Andrea Lynn | 1913 | Professional Counselo | Revocation | Revocation | 02/02/2023 | |
| Rodriguez, Andrea Lynn | 1913 | Professional Counselo | Revocation | Petition for Disciplinary Action Filed | 01/31/2023 | 02/02/2023 |
| Rodriguez, Andrea Lynn | 3855 | Mental Health Practitic | Revocation | Revocation | 02/02/2023 | |
| Rolland, Michael Aaron | 2250 | Mental Health Practitic | Inactive | Probation | | |
| Sharp, Jennifer Ann | 448 | Independent Mental H | Suspension | Limitation-Disciplinary | 10/12/2023 | |
| Sharp, Jennifer Ann | 448 | Independent Mental H | Suspension | Probation | 10/12/2023 | 10/12/2027 |
| Sharp, Jennifer Ann | 448 | Independent Mental H | Suspension | Suspension | 10/12/2023 | 01/09/2024 |
| Sharp, Jennifer Ann | 448 | Independent Mental H | Suspension | Petition for Disciplinary Action Filed | 09/25/2023 | 10/12/2023 |
| Sharp, Jennifer Ann | 1285 | Professional Counselo | Suspension | Limitation-Disciplinary | 10/12/2023 | |
| Sharp, Jennifer Ann | 1285 | Professional Counselo | Suspension | Probation | 10/12/2023 | 10/12/2027 |
| Sharp, Jennifer Ann | 1285 | Professional Counselo | Suspension | Civil Penalty | 10/12/2023 | 10/12/2025 |
| Sharp, Jennifer Ann | 1285 | Professional Counselo | Suspension | Suspension | 10/12/2023 | 01/09/2024 |
| Sharp, Jennifer Ann | 1285 | Professional Counselo | Suspension | Petition for Disciplinary Action Filed | 09/25/2023 | 10/12/2023 |
| Sharp, Jennifer Ann | 2314 | Mental Health Practitic | Suspension | Limitation-Disciplinary | 10/12/2023 | |
| Sharp, Jennifer Ann | 2314 | Mental Health Practitic | Suspension | Probation | 10/12/2023 | 10/12/2027 |
| Sharp, Jennifer Ann | 2314 | Mental Health Practitic | Suspension | Suspension | 10/12/2023 | 01/09/2024 |
| Sharp, Jennifer Ann | 2314 | Mental Health Practitic | Suspension | Petition for Disciplinary Action Filed | 09/25/2023 | 10/12/2023 |
| Triggs, Thomas Roy | 12715 | Provisional Mental He | Revocation | Revocation | 08/30/2023 | |
| Triggs, Thomas Roy | 12715 | Provisional Mental He | Revocation | Petition for Disciplinary Action Filed | 08/29/2023 | 08/30/2023 |
| Universe, Anya Marie | 13352 | Provisional Mental He | Active | Censure | 12/05/2023 | |
| Universe, Anya Marie | 13352 | Provisional Mental He | Active | Petition for Disciplinary Action Filed | 10/12/2023 | 12/05/2023 |
| White, Sharlett Renee | 12084 | Provisional Mental He | Active | Probation | 04/01/2023 | 04/01/2026 |
| White, Sharlett Renee | 12084 | Provisional Mental He | Active | Petition for Disciplinary Action Filed | 03/21/2023 | 03/22/2023 |

Agenda item 9

BY-LAWS

BOARD OF EXAMINERS IN MENTAL HEALTH PRACTICE

| | |
|--------------|---|
| Article I | Name |
| Article II | Objective |
| Article III | Membership |
| Article IV | Officers and Elections |
| Article V | Duties of Officers |
| Article VI | Complaint Screener & Investigative Consultant |
| Article VII | Per Diem and Expenses |
| Article VIII | Meetings |
| Article IX | Notice of Meetings |
| Article X | Quorum |
| Article XI | Parliamentary Authority |
| Article XII | Motions |
| Article XIII | Public Participation in Meetings |
| Article XIV | Minutes |
| Article XVI | Amendment |

ADOPTED: 3/5/99
Revised 2008,
Article 7 revised 9.9.2019

BY-LAWS

BOARD OF MENTAL HEALTH PRACTICE

ARTICLE I

NAME:

Board of Mental Health Practice.

ARTICLE II

OBJECTIVES:

(1) To provide an orderly transaction of business relative to the function of the Board.

(2) To provide a forum for members of the profession and consumers to present information and concerns pertaining to the practice of Mental Health in the State of Nebraska.

ARTICLE III
MEMBERSHIP:

Membership in the Board of Mental Health Practice is set in statute 38-2120.

ARTICLE IV
OFFICERS AND ELECTIONS:

Officers will be elected annually at the first meeting after December 1.

Officers shall be: Chairperson
 Vice-Chairperson
 Secretary

No member shall hold more than 2 consecutive terms in the same officer position and a conscience effort should be made to rotate offices among the professions and public represented

ARTICLE V
DUTIES OF OFFICERS:

Chair: Facilitates meeting, reviews agenda prior to mailing, and represents the Board to outside parties.

Vice Chair: In absence of chair, performs duties as assigned to chair.

Secretary: In absence of chair and vice-chair, facilitates meeting and Signs Minutes.

ARTICLE VI
COMPLAINT SCREENER & INVESTIGATIVE CONSULTANT

The investigative consultant for a given case shall not participate in the Board's recommendation.

ARTICLE VII
PER DIEM AND EXPENSES:

Each member of a board shall, in addition to necessary traveling and lodging expenses, receive a per diem for each day actually engaged in the discharge of his or her duties, including compensation for the time spent in traveling to and from the place of conducting business. Board members per diems shall be \$50 per day (38-171). Actually engaged includes:

- 1 day of preparation time for each meeting,
- Attending the Board meeting (in person or by conference call),
- Each day the member is representing the board at a national meeting of state licensing boards, and
- Each day of travel where overnight arrangements have been made (board meeting or national meeting).

Expenses shall be reimbursed according to the Uniform Credentialing Act and the Department of Health and Human Services policy(s).

ARTICLE VIII
MEETINGS:

Board Meetings will be scheduled as necessary for the transaction of business; and will be held at least quarterly.

ARTICLE IX
NOTICE OF MEETINGS:

Notice of meetings and agendas are to be distributed in accordance with the Nebraska Public Meetings Law and Licensure Unit policy, including posting on DHHS website and bulletin board in the Licensure Unit Lobby.

ARTICLE X
QUORUM:

6 members of the Board shall constitute a quorum for conducting business.

Board members should notify the Licensure Unit as soon as possible if they are unable to attend a meeting.

The Chairperson may cancel or reschedule a meeting if a quorum is not present.

ARTICLE XI

The rules of parliamentary practice comprised in Robert's Rules of Order, Newly

Revised: shall govern all proceedings of the board, subject to such special rules as have been or may be adopted.

**PARLIMENTARY
AUTHORITY:**

ARTICLE XII

Motions will be made in accordance with parliamentary procedure, except the Chairperson may request that the motion be put in writing and submitted to him/her to be read prior to an official vote.

MOTIONS:

ARTICLE XIII

All meetings shall be open to the public, except closed sessions, and comply with provisions of the Public Meetings Law.

PUBLIC PARTICIPATION

AT MEETINGS:

Individuals attending board meetings will be afforded an opportunity to speak, when appropriate, subject to the following guidelines:

1. By contacting the Chairperson prior to the meeting, relative to a specific issue and asking to be placed on the agenda. This contact must be made no later than 10 days prior to the meeting.
2. The Chairperson may ask at a meeting if members of the public have input they wish to present to the board relative to a specific agenda item.
3. Members of the public speaking at board meetings will identify themselves and indicate if they are appearing on their own behalf or representing a group or organization as their spokesperson. This shall be recorded in the minutes of the meeting.
4. The Chairperson may limit the time available for public input to facilitate accomplishment of business on the board's agenda.
5. Pursuant to Neb. Rev. Stat. 84-1412, Public Meeting Law, the Chairperson may restrict in terms of time, scope and number of individuals speaking at a public meeting. The Chairperson will announce allotted time prior to an individual speaking or may direct during the presentation the time will be limited.
6. The Board may invite persons with special expertise to speak on specific issues.

ARTICLE XIV

Minutes of Board Meetings shall be maintained on file and available for public viewing, in the office of the Licensure Unit. A draft of the minutes shall be available within 10 days following the board meeting date.

MINUTES:

ARTICLE XVI

Amendments to these by-laws may be proposed by any member of the Board. Proposed amendments shall require a majority vote of the Board Members.

AMENDMENTS:

Statutory changes that dictate modification of these by-laws will not require amendment by the Board. If there is a conflict between state law and Board by-laws, state law will take precedence.

Statutes Relating to Boards Uniform Credentialing Act

38-126. Rules and regulations; board and department; adopt.

To protect the health, safety, and welfare of the public and to insure to the greatest extent possible the efficient, adequate, and safe practice of health services, health-related services, and environmental services:

(1)(a) The appropriate board may adopt rules and regulations to:

(i) Specify minimum standards required for a credential, including education, experience, and eligibility for taking the credentialing examination, specify methods to meet the minimum standards through military service as provided in section 38-1,141, and on or before December 15, 2017, specify standards and procedures for issuance of temporary credentials for military spouses as provided in section 38-129.01;

(ii) Designate credentialing examinations, specify the passing score on credentialing examinations, and specify standards, if any, for accepting examination results from other jurisdictions;

(iii) Set continuing competency requirements in conformance with section 38-145;

(iv) Set standards for waiver of continuing competency requirements in conformance with section 38-146;

(v) Set standards for courses of study; and

(vi) Specify acts in addition to those set out in section 38-179 that constitute unprofessional conduct; and

(b) The department shall promulgate and enforce such rules and regulations;

(2) For professions or businesses that do not have a board created by statute:

(a) The department may adopt, promulgate, and enforce such rules and regulations; and

(b) The department shall carry out any statutory powers and duties of the board;

(3) The department, with the recommendation of the appropriate board, if any, may adopt, promulgate, and enforce rules and regulations for the respective profession, other than those specified in subdivision (1) of this section, to carry out the Uniform Credentialing Act; and

(4) The department may adopt, promulgate, and enforce rules and regulations with general applicability to carry out the Uniform Credentialing Act.

Source: Laws 1927, c. 167, § 68, p. 472; C.S.1929, § 71-902; R.S.1943, § 71-169; Laws 1996, LB 1044, § 401; R.S.1943, (2003), § 71-169; Laws 2007, LB296, § 321; Laws 2007, LB463, § 26; Laws 2015, LB264, § 2; Laws 2017, LB88, § 32.

38-145. Continuing competency requirements; board; duties.

(1) The appropriate board shall establish continuing competency requirements for persons seeking renewal of a credential.

(2) The purposes of continuing competency requirements are to ensure (a) the maintenance by a credential holder of knowledge and skills necessary to competently practice his or her profession, (b) the utilization of new techniques based on scientific and clinical advances, and (c) the promotion of research to assure expansive and comprehensive services to the public.

(3) Each board shall consult with the department and the appropriate professional academies, professional societies, and professional associations in the development of such requirements.

(4)(a) For a profession for which there are no continuing education requirements on December 31, 2002, the requirements may include, but not be limited to, any one or a combination of the continuing competency activities listed in subsection (5) of this section.

(b) For a profession for which there are continuing education requirements on December 31, 2002, continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, any one or a combination of the continuing competency activities listed in subdivisions (5)(b) through (5)(p) of this section which a credential holder may select as an alternative to continuing education.

(5) Continuing competency activities may include, but not be limited to, any one or a combination of the following:

(a) Continuing education;

(b) Clinical privileging in an ambulatory surgical center or hospital as defined in section 71-405 or 71-419;

(c) Board certification in a clinical specialty area;

(d) Professional certification;

(e) Self-assessment;

(f) Peer review or evaluation;

(g) Professional portfolio;

(h) Practical demonstration;

(i) Audit;

(j) Exit interviews with consumers;

(k) Outcome documentation;

(l) Testing;

(m) Refresher courses;

(n) Inservice training;

(o) Practice requirement; or

(p) Any other similar modalities.

(6) Beginning with the first license renewal period which begins on or after October 1, 2018, the continuing competency requirements for a nurse midwife, dentist, physician, physician assistant, nurse practitioner, podiatrist, and veterinarian who prescribes controlled substances shall include at least three hours of continuing education biennially regarding prescribing opiates as defined in section 28-401. The continuing education may include, but is not limited to, education regarding prescribing and administering opiates, the risks and indicators regarding development of addiction to opiates, and emergency opiate situations. One-half hour of the three hours of continuing education shall cover the prescription drug monitoring program described in sections 71-2454 to 71-2456. This subsection terminates on January 1, 2029.

Source: Laws 1976, LB 877, § 14; Laws 1984, LB 481, § 21; Laws 1985, LB 250, § 4; Laws 1986, LB 286, § 62; Laws 1986, LB 579, § 54; Laws 1992, LB 1019, § 38; Laws 1994, LB 1210, § 41; Laws 1999, LB 828, § 47; Laws 2002, LB 1021, § 12; R.S.1943, (2003), § 71-161.09; Laws 2007, LB463, § 45; Laws 2018, LB731, § 2.

38-160. Board; member; removal; procedure; grounds.

(1) The State Board of Health shall have power to remove from office at any time any member of a board for which it appoints the membership, after a public hearing pursuant to the Administrative Procedure Act, for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for not maintaining the qualifications established in sections 38-164 and 38-165, for any cause for which a credential in the profession or business involved may be suspended or revoked under section 38-178 or 38-179, or for a lack of a credential in the profession or business involved.

(2) The State Board of Health shall have full access to such complaints or investigational records as necessary and appropriate in the discharge of its duties under subsection (1) of this section and section 38-158.

Source: Laws 1927, c. 167, § 18, p. 458; C.S.1929, § 71-308; R.S.1943, § 71-118; Laws 1979, LB 427, § 9; Laws 1986, LB 286, § 35; Laws 1986, LB 579, § 27; Laws 1987, LB 473, § 12; Laws 1993, LB 187, § 6; Laws 1994, LB 1210, § 20; Laws 1999, LB 828, § 22; R.S.1943, (2003), § 71-118; Laws 2007, LB463, § 60.

Cross References

- **Administrative Procedure Act**, see section 84-920.

38-161. Boards; purpose; duties; advisory committees or bodies authorized.

(1) The purpose of each board is to protect the health, safety, and welfare of the public as prescribed in the Uniform Credentialing Act.

(2) The duties of each board include, but are not limited to, (a) setting the minimum standards of proficiency and competency in accordance with section 38-126, (b) providing recommendations in accordance with section 38-149, (c) providing recommendations related to the issuance or denial of credentials, disciplinary action, and changes in legislation, and (d) providing the department with recommendations on regulations to carry out the Uniform Credentialing Act in accordance with section 38-126.

(3) Each board may appoint advisory committees or other advisory bodies as necessary for specific purposes. At least one board member shall serve on each advisory committee or body, and other members may be appointed from outside the board.

Source: Laws 1982, LB 448, § 3; Laws 1987, LB 473, § 7; Laws 1999, LB 828, § 16; R.S.1943, (2003), § 71-112.03; Laws 2007, LB463, § 61.

38-164. Boards; professional members; qualifications.

(1) A professional member of a board appointed under the Uniform Licensing Law prior to December 1, 2008, shall remain subject to the requirements of the original appointment until reappointed under the Uniform Credentialing Act. Except as otherwise provided in the Uniform Credentialing Act, every professional member of a board appointed on or after December 1, 2008, shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member. For purposes of this section, active practice means devoting a substantial portion of time to rendering professional services.

(2) Each professional member of a board shall have been a resident of Nebraska for one year and shall remain a resident of Nebraska while serving as a board member.

Source: Laws 1927, c. 167, § 14, p. 458; C.S.1929, § 71-304; Laws 1935, c. 142, § 31, p. 530; C.S.Supp.,1941, § 71-304; Laws 1943, c. 150, § 6, p. 540; R.S.1943, § 71-114; Laws 1957, c. 298, § 9, p. 1078; Laws 1978, LB 406, § 6; Laws 1979, LB 427, § 7; Laws 1984, LB 481, § 11; Laws 1985, LB 129, § 7; Laws 1986, LB 926, § 5; Laws 1987, LB 473, § 9; Laws 1988, LB 1100, § 10; Laws 1988, LB 557, § 18; Laws 1993, LB 669, § 8; Laws 1994, LB 1210, § 18; Laws 1995, LB 406, § 16; Laws 1999, LB 828, § 18; Laws 2004, LB 1083, § 109; R.S.Supp.,2006, § 71-114; Laws 2007, LB463, § 64.

38-165. Boards; public members; qualifications.

A public member of a board appointed under the Uniform Licensing Law prior to December 1, 2008, shall remain subject to the requirements of the original appointment until reappointed under the Uniform Credentialing Act. At the time of appointment and while serving as a board member, a public member appointed to a board on or after December 1, 2008, shall:

(1) Have been a resident of this state for one year;

(2) Remain a resident of Nebraska while serving as a board member;

(3) Have attained the age of nineteen years;

(4) Represent the interests and viewpoints of the public;

(5) Not hold an active credential in any profession or business which is subject to the Uniform Credentialing Act, issued in Nebraska or in any other jurisdiction, at any time during the five years prior to appointment;

(6) Not be eligible for appointment to a board which regulates a profession or business in which that person has ever held a credential;

(7) Not be or not have been, at any time during the year prior to appointment, an employee of a member of a profession credentialed by the department, of a facility credentialed pursuant to the Health Care Facility Licensure Act, of a business credentialed pursuant to the Uniform Credentialing Act, or of a business regulated by the board to which the appointment is being made;

(8) Not be the parent, child, spouse, or household member of any person presently regulated by the board to which the appointment is being made;

(9) Have no material financial interest in the profession or business regulated by such board; and

(10) Not be a member or employee of the legislative or judicial branch of state government.

Source: Laws 2007, LB463, § 65; Laws 2014, LB132, § 10.

Cross References

- **Health Care Facility Licensure Act**, see section 71-401.

38-166. Initial board subject to act; additional qualifications for members.

For professions coming within the scope of the Uniform Credentialing Act for the first time:

(1) A professional member of a board shall not be required to have held and maintained an active credential for a period of five years just preceding his or her appointment. Members appointed during the first five years after a profession comes within the scope of the act shall be required to meet the minimum qualifications for credentialing and shall, insofar as possible, meet the requirements as to years of practice in this state otherwise provided by section 38-164;

(2) All professional members appointed to an initial board shall be credentialed within six months after being appointed to the board or

within six months after the date by which members of the profession are required to be credentialed, whichever is later. If for any reason a professional member is not credentialed within such time period, a new professional member shall be appointed to take his or her place;

(3) Members shall be appointed to the initial board within thirty days after the effective or operative date, whichever is later, of the legislation providing for credentialing of the profession; and

(4) The terms of the initial board members shall be as follows: One member shall hold office until December 1 of the third year following the year in which the legislation providing for credentialing of the profession became effective; two, including one public member, until December 1 of the fourth year; and two, including one public member, until December 1 of the fifth year.

Source: Laws 2007, LB463, § 66.

38-167. Boards; designated; change in name; effect.

(1) Boards shall be designated as follows:

(a) Board of Advanced Practice Registered Nurses;

(b) Board of Alcohol and Drug Counseling;

(c) Board of Athletic Training;

(d) Board of Audiology and Speech-Language Pathology;

(e) Board of Chiropractic;

(f) Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art;

(g) Board of Dentistry;

(h) Board of Emergency Medical Services;

(i) Board of Registered Environmental Health Specialists;

(j) Board of Funeral Directing and Embalming;

(k) Board of Hearing Instrument Specialists;

(l) Board of Massage Therapy;

(m) Board of Medical Nutrition Therapy;

(n) Board of Medical Radiography;

(o) Board of Medicine and Surgery;

(p) Board of Mental Health Practice;

(q) Board of Nursing;

(r) Board of Nursing Home Administration;

(s) Board of Occupational Therapy Practice;

(t) Board of Optometry;

(u) Board of Pharmacy;

(v) Board of Physical Therapy;

(w) Board of Podiatry;

(x) Board of Psychology;

(y) Board of Respiratory Care Practice;

(z) Board of Veterinary Medicine and Surgery; and

(aa) Water Well Standards and Contractors' Licensing Board.

(2) Any change made by the Legislature of the names of boards listed in this section shall not change the membership of such boards or affect the validity of any action taken by or the status of any action pending before any of such boards. Any such board newly named by the Legislature shall be the direct and only successor to the board as previously named.

Source: Laws 1927, c. 167, § 12, p. 457; C.S.1929, § 71-302; Laws 1935, c. 142, § 30, p. 530; C.S.Supp.,1941, § 71-302; Laws 1943, c. 150, § 4, p. 540; R.S.1943, § 71-112; Laws 1957, c. 298, § 8, p. 1078; Laws 1961, c. 337, § 6, p. 1053; Laws 1978, LB 406, § 4; Laws 1979, LB 427, § 5; Laws 1981, LB 451, § 3; Laws 1984, LB 481, § 9; Laws 1985, LB 129, § 5; Laws 1986, LB 277, § 5; Laws 1986, LB 286, § 32; Laws 1986, LB 355, § 11; Laws 1986, LB 579, § 24; Laws 1988, LB 557, § 16; Laws 1988, LB 1100, § 8; Laws 1989, LB 342, § 8; Laws 1993, LB 187, § 5; Laws 1993, LB 669, § 6; Laws 1995, LB 406, § 14; Laws 1999, LB 828, § 14; Laws 2000, LB 833, § 1; Laws 2001, LB 270, § 5; Laws 2002, LB 1021, § 7; Laws 2004, LB 1083, § 107; R.S.Supp.,2006, § 71-112; Laws 2007, LB236, § 5; Laws 2007, LB463, § 67; Laws 2009, LB195, § 7.

38-168. Boards; conflict of interest.

The department may establish definitions of conflicts of interest for members of the boards and may establish procedures in the case such a conflict arises. For purposes of this section, conflict of interest includes financial, professional, or personal obligations that may compromise or present the appearance of compromising the judgment of a member in the performance of his or her duties.

Source: Laws 1982, LB 448, § 5; Laws 1987, LB 473, § 10; Laws 1999, LB 828, § 19; R.S.1943, (2003), § 71-115.01; Laws 2007, LB463, § 68.

38-169. Board; organization.

Each board shall organize annually at its first meeting subsequent to December 1 and shall select a chairperson, a vice-chairperson, and a secretary from its own membership.

Source: Laws 1927, c. 167, § 20, p. 459; C.S.1929, § 71-310; R.S.1943, § 71-120; Laws 1999, LB 828, § 24; R.S.1943, (2003), § 71-120; Laws 2007, LB463, § 69.

38-170. Board; business; how transacted.

The department shall, as far as practicable, provide for the conducting of the business of the boards by mail and may hold meetings by teleconference or videoconference subject to the Open Meetings Act. Any official action or vote of the members of a board taken by mail shall be preserved in the records of the department and shall be recorded in the board's minutes by the department.

Source: Laws 1927, c. 167, § 21, p. 459; C.S.1929, § 71-311; Laws 1943, c. 150, § 9, p. 541; R.S.1943, § 71-121; Laws 1978, LB 406, § 8; Laws 1979, LB 427, § 11; Laws 1985, LB 129, § 9; Laws 1986, LB 926, § 8; Laws 1988, LB 1100, § 12; Laws 1997, LB 307, § 114; Laws 1999, LB 828, § 25; Laws 2004, LB 821, § 16; R.S.Supp.,2006, § 71-121; Laws 2007, LB463, § 70.

Cross References

- **Open Meetings Act**, see section 84-1407.

38-171. Board; advisory committee or body; compensation; limitation; expenses.

Each member of a board shall, in addition to necessary traveling and lodging expenses, receive a per diem for each day actually engaged in the discharge of his or her duties, including compensation for the time spent in traveling to and from the place of conducting business. Traveling and lodging expenses shall be on the same basis as provided in sections 81-1174 to 81-1177. The compensation per day shall not exceed fifty dollars and shall be determined by each board with the approval of the department. Persons serving on an advisory committee or body under section 38-161 shall receive remuneration of expenses as provided in sections 81-1174 to 81-1177, including compensation for time spent in traveling to and from the place of conducting business, and a per diem of fifty dollars.

Source: Laws 1927, c. 167, § 22, p. 459; Laws 1929, c. 161, § 1, p. 556; C.S.1929, § 71-312; Laws 1935, c. 142, § 32, p. 531; C.S.Supp.,1941, § 71-312; R.S.1943, § 71-122; Laws 1955, c. 270, § 1, p. 849; Laws 1957, c. 298, § 11, p. 1079; Laws 1959, c. 318, § 1, p. 1165; Laws 1961, c. 337, § 7, p. 1053; Laws 1965, c. 410, § 1, p. 1315; Laws 1967, c. 438, § 1, p. 1347; Laws 1967, c. 439, § 16, p. 1364; Laws 1969, c. 561, § 1, p. 2287; Laws 1971, LB 587, § 5; Laws 1972, LB 1385, § 1; Laws 1978, LB 406, § 9; Laws 1979, LB 427, § 12; Laws 1981, LB 451, § 5; Laws 1981, LB 204, § 108; Laws 1984, LB 481, § 13; Laws 1985, LB 129, § 10; Laws 1986, LB 926, § 10; Laws 1999, LB 828, § 27; Laws 2003, LB 242, § 17; R.S.1943, (2003), § 71-122; Laws 2007, LB463, § 71.

38-172. Board; national organization or related meetings; attendance.

Each board may select one or more of its members to attend the annual meeting of the national organization of state boards of such profession or other related meetings. Any member so selected shall receive his or her necessary traveling and lodging expenses in attending such meetings on the same basis as provided in sections 81-1174 to 81-1177.

Source: Laws 1927, c. 167, § 24, p. 460; C.S.1929, § 71-314; R.S.1943, § 71-124; Laws 1971, LB 587, § 7; Laws 1981, LB 204, § 110; Laws 1986, LB 926, § 12; Laws 1999, LB 828, § 29; R.S.1943, (2003), § 71-124; Laws 2007, LB463, § 72.

38-173. Board; liability; exemption; when.

No member of a board, no expert retained by the department, and no member of a profession who provides consultation to or testimony for the department shall be liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or otherwise for any action taken or recommendation made within the scope of the functions of such board or expert or the consultation or testimony given by such person, if such board member, expert, or person acts without malice and in the reasonable belief that such action, recommendation, consultation, or testimony is warranted by the facts known to him or her after a reasonable effort is made to obtain the facts on which such action is taken, recommendation is made, or consultation or testimony is provided.

Source: Laws 1976, LB 877, § 24; Laws 1986, LB 286, § 71; Laws 1986, LB 579, § 63; Laws 1996, LB 1044, § 398; Laws 1999, LB 828, § 52; R.S.1943, (2003), § 71-161.19; Laws 2007, LB463, § 73.